Planning for ...
California's Health Care Future

OSHPD

OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

CALIFORNIA HEALTH FACILITY CONSTRUCTION LOAN INSURANCE LAW
& RELATED LAWS

(Revised to Include Changes Effective January 1, 1997)

Gray Davis, Governor
State of California

Grantland Johnson, Secretary
Health and Human Services Agency

David Werdegar, MD, MPH, Director
Office of Statewide Health
Planning and Development

Dennis T. Fenwick, J.D., Deputy Director
Cal-Mortgage Loan Insurance Divison
818 K Street, Suite 210
Sacramento, CA 95814
Voice 916.324.9957
Fax 916.327.5688
http://www.oshpd.cahwnet.gov

CALIFORNIA HEALTH FACILITY CONSTRUCTION LOAN INSURANCE LAW

CONSTITUTION

STATUTES

HEALTH AND SAFETY CODE

DIVISION 107. STATEWIDE HEALTH PLANNING AND DEVELOPMENT

PART 6. FACILITIES LOAN INSURANCE AND FINANCING

Chapter 1. HEALTH FACILITY CONSTRUCTION LOAN INSURANCE (Added by Stats. 1969, c. 970. Added by Stats. 1995, c. 415 (S.B.1360), §9.)

Article 1. GENERAL PROVISIONS

Article 2. INSURABLE LOANS AND APPLICATIONS THEREFOR

Article 7. SMALL FACILITY LOAN GUARANTEE FOR DEVELOPMENTAL DISABILITY PROGRAMS

Article 9. RURAL HOSPITALS GRANT PROGRAM

Article 10. COMMUNITY HEALTH CENTER FACILITIES LOAN INSURANCE

RELATED STATUTES

CODE OF CIVIL PROCEDURE

GOVERNMENT CODE

HEALTH AND SAFETY CODE

CALIFORNIA CONSTITUTION

Article XVI, Section 4

[Loan Guarantees re Nonprofit Corporations and Public Agencies]

Sec. 4. The Legislature shall have the power to insure or guarantee loans made by private or public lenders to nonprofit corporations and public agencies, the proceeds of which are to be used for the construction, expansion, enlargement, improvement, renovation or repair of any public or nonprofit hospital, hospital facility, or extended care facility, facility for the treatment of mental illness, or all of them, including any outpatient facility and any other facility useful and convenient in the operation of the hospital and any original equipment for any such hospital or facility, or both.

No provision of this Constitution, including but not limited to, Section 1 or Article XVI and Section 14 of Article XI, shall be construed as a limitation upon the authority granted to the Legislature by this section. *(New section adopted November 5, 1974.)*

HEALTH AND SAFETY CODE

DIVISION 107. STATEWIDE HEALTH PLANNING AND DEVELOPMENT
(Division 107 was added by Stats. 1995, c. 415, (S.B. 1360), § 9, eff. Jan. 1, 1996.)

PART 6. FACILITIES LOAN INSURANCE AND FINANCING
(Renumbered by Stats. 1995, c. 415, p. 902, eff. Jan. 1, 1996.)

Chapter 1. HEALTH FACILITY CONSTRUCTION LOAN INSURANCE
Chapter 1 was added by Stats. 1969, c. 970, p. 1919, § 1.

Article 1. GENERAL PROVISIONS
Added by Stats. 1969, c. 970, p. 1920, § 1. Added by Stats. 1995, c. 415 (S.B.1360), §9.

§ 129000. Short title

This chapter may be cited as the "California Health Facility Construction Loan Insurance Law."

(Added by Stats. 1969, c. 970, p. 1920, § 1.)

§ 129005. Purpose

The purpose of this chapter is to provide, without cost to the state, an insurance program for health facility construction, improvement, and expansion loans in order to stimulate the flow of private capital into health facilities construction, improvement, and expansion and in order to rationally meet the need for new, expanded and modernized public and nonprofit health facilities necessary to protect the health of all the people of this state. The provisions of this chapter are to be liberally construed to achieve this purpose.

(Added by Stats. 1969, c. 970, p. 1920, § 1. Amended by Stats. 1979, c. 1047, p. 3689, § 1, eff. Sept. 26, 1979.)

§ 129010. Definitions

Unless the context otherwise requires, the definitions in this section govern the construction of this chapter and of Section 32127.2.

(a) "Bondholder" means the legal owner of a bond or other evidence of indebtedness issued by a political subdivision or a nonprofit corporation.

(b) "Borrower" means a political subdivision or nonprofit corporation that has secured or intends to secure a loan for the construction of a health facility.

(c) "Construction, improvement, or expansion" or "construction, improvement, and expansion" includes construction of new buildings, expansion, modernization, renovation, remodeling and alteration of existing buildings, acquisition of existing buildings or health facilities, and initial or additional equipping of any of these buildings.

In connection therewith, "construction, improvement, or expansion" or "construction, improvement, and expansion" includes the cost of construction or acquisition of all structures, including parking facilities, real or personal property, rights, rights-of-way, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land where the buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest (prior to, during and for a period after completion of the construction), provisions for working capital, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing or incident to the construction; or the financing of the construction or acquisition.

(d) "Commission" means the California Health Policy and Data Advisory Commission.

(e) "Debenture" means any form of written evidence of indebtedness issued by the State Treasurer pursuant to this chapter, as authorized by Section 4 of Article XVI of the California Constitution.

(f) "Fund" means the Health Facility Construction Loan Insurance Fund.

(g) "Health facility" means any facility providing or designed to provide services for the acute, convalescent, and chronically ill and impaired, including but not limited to, public health centers, community mental health centers, facilities for the developmentally disabled, nonprofit community care facilities that provide care, habilitation, rehabilitation or treatment to developmentally disabled persons, facilities for the treatment of chemical dependency, including a community care facility, licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2, a clinic, as defined pursuant to Chapter 1 (commencing with Section 1200) of Division 2, an alcoholism recovery facility, defined pursuant to former Section 11834.11, and a structure located adjacent or attached to another type of health facility and that is used for storage of materials used in the treatment of chemical dependency, and general tuberculosis, mental, and other types of hospitals and related facilities, such as laboratories, outpatient departments, extended care, nurses' home and training facilities, offices and central service facilities operated in connection with hospitals, diagnostic or treatment centers, extended care facilities, nursing homes, and rehabilitation facilities. "Health facility" also means an adult day health center and a multilevel facility. Except for facilities for the developmentally disabled, facilities for the treatment of

chemical dependency, or a multilevel facility, or as otherwise provided in this subdivision, "health facility" does not include any institution furnishing primarily domiciliary care.

"Health facility" also means accredited nonprofit work activity programs as defined in subdivision (e) of Section 19352 and Section 19355 of the Welfare and Institutions Code, and nonprofit community care facilities as defined in Section 1502, excluding foster family homes, foster family agencies, adoption agencies, and residential care facilities for the elderly.

Unless the context dictates otherwise, "health facility" includes a political subdivision of the state or nonprofit corporation that operates a facility included within the definition set forth in this subdivision.

(h) "Office" means the Office of Statewide Health Planning and Development.

(i) "Lender" means the provider of a loan and its successors and assigns.

(j) "Loan" means money or credit advanced for the costs of construction or expansion of the health facility, and includes both initial loans and loans secured upon refinancing and may include both interim, or short-term loans, and long-term loans. A duly authorized bond or bond issue, or an installment sale agreement, may constitute a "loan."

(k) "Maturity date" means the date that the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for by the terms of the loan.

(l) "Mortgage" means a first mortgage on real estate. "Mortgage" includes a first deed of trust.

(m) "Mortgagee" includes a lender whose loan is secured by a mortgage. "Mortgagee" includes a beneficiary of a deed of trust.

(n) "Mortgagor" includes a borrower, a loan to whom is secured by a mortgage, and the trustor of a deed of trust.

(o) "Nonprofit corporation" means any corporation formed under or subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) that is organized for the purpose of owning and operating a health facility and that also meets the requirements of Section 501(c)(3) of the Internal Revenue Code.

(p) "Political subdivision" means any city, county, joint powers entity, local hospital district, or the California Health Facilities Authority.

(q) "Project property" means the real property where the health facility is, or is to be, constructed, improved, or expanded, and also means the health facility and the initial equipment in that health facility.

(r) "Public health facility" means any health facility that is or will be constructed for and operated and maintained by any city, county, or local hospital district.

(s) "Adult day health center" means a facility defined under subdivision (b) of Section 1570.7, that provides adult day health care, as defined under subdivision (a) of Section 1570.7.

(t) "Multilevel facility" means an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this subdivision, means a person 62 years of age or older.

(Added by Stats. 1979, c. 1047, p. 3691, § 3, eff. Sept. 26, 1979, operative Jan. 1, 1980. Amended by Stats. 1980, c. 911, p. 2886, § 2, eff. Sept. 17, 1980; Stats. 1983, c. 1228, § 4, eff. Sept. 30, 1983; Stats. 1983, c. 1242, § 7.5; Stats. 1988, c. 1621, § 1; Stats. 1989, c. 759, § 1; Stats. 1989, c. 1373, § 2.; Stats. 1991, c.753 § 1.)

§ 129015. Administration of chapter; rules and regulations

The office shall administer this chapter and shall make all regulations necessary to implement the provisions and achieve the purposes stated herein. The commission, as authorized by this chapter and by Section 129460, shall advise and consult with the office in carrying out the administration of this chapter.

(Added by Stats. 1969, c. 970, p. 1921, § 1. Amended by Stats. 1978, c. 429, § 92, eff. July 17, 1978, operative July 1, 1978.)

§ 129020. Duties of office

The office shall implement the loan insurance program for the construction, improvement, and expansion of public and nonprofit corporation health facilities so that, in conjunction with all other existing facilities, the necessary physical facilities for furnishing adequate health facility services will be available to all the people of the state.

The office shall make an inventory of all existing health facilities and shall survey the need for construction, improvement, and expansion of public and nonprofit corporation health facilities and, on the basis of that inventory and survey, shall develop a state plan. The office shall submit copies of the state plan to the Senate Health and Human Services, Senate Appropriations, Assembly Health, and Assembly Ways and Means Committees.

The health facility construction loan insurance program shall provide for health facility distribution throughout the state in a manner that will make all types of health facility services reasonably accessible to all persons in the state according to the state plan.

In performing its duties under this section, the office may utilize the state plan developed pursuant to former Section 439.3.

(Added by Stats. 1969, c. 970, p. 1921, § 1. Amended by Stats. 1978, c. 429, § 93 eff. July 17, 1978, operative July 1, 1978; Stats. 1979, c. 1047, p. 3693, § 4, eff. Sept. 26, 1979; Stats. 1983, c. 1105, § 1; Stats. 1989, c. 898, § 2; Stats. 1991, c. 753, § 2.)

§ 129022. Applications to office; signature; perjury

Applications submitted to the office shall be signed under penalty of perjury by the applicant.

(Added by Stats. 1994, c. 414, p. 6, § 4, eff. Sept. 1, 1994, Senate Bill No. 1705.)

§ 129025. Prerequisites; state system of planning; approval of facility

No insurance shall be provided for loans under this chapter until a statewide system of health facility planning has been established so that all hospitals as defined in Section 1250 and facilities licensed by the department pursuant to Chapter 1, (commencing with Section 1200) to Chapter 2.5 (commencing with Section 1440), inclusive, except for Chapter 2.2 (commencing with Section 1340) of Division 2, have been reviewed by an area health planning agency prior to licensure. No insurance shall be provided for a loan under this chapter for a hospital or facility unless it has been finally approved through the statewide system of health facility planning.

(Formerly § 436.45, added by Stats. 1969, c. 970, p. 1922, § 1. Amended by Stats. 1971, c. 1593, p. 3251, § 108, operative July 1, 1973; Stats. 1977, c. 1252, § 200, operative July 1, 1978; Stats. 1978, c. 429, § 93.5, eff. July 17, 1978, operative July 1, 1978. Renumbered § 436.43 and amended by Stats. 1990, c. 216, § 48.)

For another § 436.43, repealed by Stats. 1987, c. 1028, § 2, see Article 7 in main volume.

§ 129030. Disbursements of proceeds of insured loans

The proceeds of all loans insured pursuant to this chapter shall be disbursed only upon order of the office or its designated agent. The office shall make regulations to insure the security of these proceeds.

(Added by Stats. 1969, c. 970, p. 1922, § 1. Amended by Stats. 1978, c. 429, § 94, eff. July 17, 1978, operative July 1, 1978.)

§ 129035. Project inspection of progress payments

From time to time the office or its designated agents shall inspect each construction project for which loan insurance was approved, and if the inspection so warrants, the office or agent shall certify that the work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment of the loan proceeds is due to the borrower. The office shall charge the borrower a fee for such inspections and certifications, which in no instance shall exceed four dollars ($4) for each one thousand dollars ($1,000) of the borrower's loan that is insured. These fees shall be deposited in the fund.

(Added by Stats. 1969, c. 970, p. 1922, § 1. Amended by Stats. 1978, c. 429, § 95, eff. July 17, 1978, operative July 1, 1978.)

§ 129040. Annual premium charge

The office shall establish an annual premium charge for the insurance of hospital construction loans under this chapter, and this charge shall be deposited in the fund. The annual premium charge shall not be more than an amount equivalent to one-half of 1 percent per annum of the average amount of the principal obligation of the loan during the year in which the charge is made, without taking into account delinquent payments. The office may reduce or eliminate the premium charges for insured loans outstanding for a period in excess of three years. Such premium charges shall be payable by the borrower, or, where practicable, by the lender on account of a delinquent borrower, to the office at times that shall be established by the office. The office may require the payment of one or more premium charges at the time the loan is insured, at a discount rate as it may prescribe

not in excess of the interest rate specified in the loan. In the event that the principal obligation of any insured loan is paid in full prior to the maturity as the office shall determine to be equitable, of the current unearned premium charges theretofore paid by the borrower.

(Added by Stats. 1969, c. 970, p. 1923, § 1. Amended by Stats. 1978, c. 429, § 96, eff. July 17, 1978, operative July 1, 1978.)

Article 2. INSURABLE LOANS AND APPLICATIONS THEREFOR

Added by Stats. 1969, c. 970, p. 1923, § 1. Added by Stats. 1995, c. 415 (S.B.1360), §9.

§ 129050. Eligibility of loan for insurance

A loan shall be eligible for insurance under this chapter if all of the following conditions are met:

(a) When the borrower is a nonprofit corporation, the loan shall be secured by a mortgage, first lien, trust indenture, or other security agreement that the office may require subject only to those conditions, covenants and restrictions, easements, taxes, and assessments of record approved by the office. When the borrower is a political subdivision, the loan may be evidenced by a duly authorized bond issue. A loan to a local hospital district or county may meet the requirement of this subdivision by either method.

(b) The borrower obtains an American Land Title Association title insurance policy with the office designated as beneficiary, with liability equal to the amount of the loan insured under this chapter, and with such additional endorsements that the office may reasonably require.

(c) The proceeds of the loan shall be used exclusively for the construction, improvement, or expansion of the health facility, as approved by the office under Section 129020. However, loans insured pursuant to this chapter may include loans to refinance another prior loan, whether or not state insured and without regard to the date of the prior loan, if the office determines that the prior loan would have been eligible for insurance under this chapter at the time it was made. The office may not insure a loan for a health facility that is not needed as determined by the state plan developed under the authorization of Section 129020.

(d) The loan shall have a maturity date not exceeding 30 years from the date of the beginning of amortization of the loan, except as authorized by subdivision (e), or 75 percent of the office's estimate of the economic life of the health facility, whichever is the lesser.

(e) The loan shall contain complete amortization provisions requiring periodic payments by the borrower not in excess of its reasonable ability to pay as determined by the office. The office shall permit a reasonable period of time during which the first payment to amortization may be waived on agreement by the lender and borrower. The office may, however, waive the amortization requirements of this subdivision and of subdivision (g) of this section when a term loan would be in the borrower's best interest.

(f) The loan shall bear interest on the amount of the principal obligation outstanding at any time at a rate, as negotiated by the borrower and lender, as the office finds necessary to meet the loan money market. As used in this chapter, "interest" does not include premium charges for insurance and service charges if any. Where a loan is evidenced by a bond issue of a political subdivision, the interest thereon may be at any rate the bonds may legally bear.

(g) The loan shall provide for the application of the borrower's periodic payments to amortization of the

principal of the loan.

(h) The loan shall contain those terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters the office may in its discretion prescribe.

(i) The loan shall have a principal obligation not in excess of an amount equal to 90 percent of the total construction cost. Where the borrower is a political subdivision, the office may fully insure loans equal to the total construction cost.

(j) The borrower shall offer reasonable assurance that the services of the health facility will be made available to all persons residing or employed in the area served by the facility.

(k) A certificate of need or certificate of exemption has been issued for the project to be financed pursuant to Chapter 1 (commencing with Section 127125) of Part 2, unless the project is not subject to such requirement.

(l) In the case of acquisitions, a project loan shall be guaranteed only for transactions not in excess of the fair market value of the acquisition.

Fair market value shall be determined, for purposes of this subdivision, pursuant to the following procedure, that shall be utilized during the state review of the loan guarantee application:

(1) Completion of a property appraisal by an appraisal firm qualified to make appraisals, as determined by the office, before closing a loan on the project.

(2) Evaluation of the appraisal in conjunction with the book value of the acquisition by the office. When acquisitions involve additional construction, the office shall evaluate the proposed construction to determine that the costs are reasonable for the type of construction proposed. In those cases where this procedure reveals that the cost of acquisition exceeds the current value of a facility, including improvements, then the acquisition cost shall be deemed in excess of fair market value.

(m) Notwithstanding subdivision (i), any loan in the amount of five million dollars ($5,000,000) or less may be insured up to 95 percent of the total construction cost.

In determining financial feasibility of projects of counties pursuant to this section, the office shall take into consideration any assistance for the project to be provided under Sections 14085.5 and 16715 of the Welfare and Institutions Code or from other sources. It is the intent of the Legislature that the office endeavor to assist counties in whatever ways are possible to arrange loans that will meet the requirements for insurance prescribed by this section.

(Added by Stats. 1969, c. 970, p. 1923, § 1. Amended by Stats. 1978, c. 429, § 97, eff. July 17, 1978, operative July 1, 1978; Stats. 1978, c. 1290, § 1; Stats. 1979, c. 1047, p. 3694, § 5, eff. Sept. 26, 1979; Stats. 1980, c. 1351, p. 4791, § 7; Stats. 1983, c. 1105, § 1.5; Stats. 1988, c. 1621, § 2; Stats. 1988, c. 1635, §1; Stats. 1991, c. 1094, § 1.)

§ 129052. Pledge or grant of security interest by or to office; grant to office; validity and binding effect; liens; recording or perfection of pledge instrument

A pledge by or to the office of, or the grant to the office of a security interest in, revenues, moneys, accounts, accounts receivable, contract rights, general intangibles, documents, instruments, chattel paper, and other rights to payment of whatever kind made by or to the office pursuant to the authority granted in this chapter shall be valid and binding from the time the pledge is made for the benefit of pledgees and successors thereto. The revenues, moneys, accounts, accounts receivable, contract rights, general intangibles, documents, instruments, chattel paper, and other rights to payment of whatever kind pledged by or to the office or its assignees shall immediately be subject to the lien of the pledge without physical delivery or further act. The lien of such pledge shall be valid and binding against all parties, irrespective of whether the parties have notice of the lien. The indenture, trust agreement, resolution, or another instrument by which such pledge is created need not be recorded or the security interest otherwise perfected.

(Added by Stats. 1994, c. 414, p. 6, § 5, eff. Sept. 1, 1994, Senate Bill No. 1705.)

§ 129055. Utilization of facilities by Medi-Cal patients

In order to comply with subdivision (j) of Section 129050, the borrower shall demonstrate that its facility is used by persons for whom the cost of care is reimbursed under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code in a proportion that is reasonable based upon the proportion of Medi-Cal patients in the community served by the borrower and by persons for whom the costs of care is reimbursed under Title XVIII of the federal Social Security Act in a proportion that is reasonably based upon the proportion of Medicare patients in the community served by the borrower.

For the purposes of this chapter, the community served by the facility shall mean the health facility planning area designated for the planning and review of health facility beds pursuant to Chapter 1 (commencing with Section 127125) of Part 2 where the facility is located, unless the office determines that, or the borrower demonstrates to the satisfaction of the office that, a different definition is more appropriate for the borrower's facility.
(Added by Stats. 1978, c.1290, § 2.)

§ 129060. Alcoholism or drug abuse recovery or treatment program or facility

Subdivisions (b) and (c) of Section 129355 shall apply to any residential or nonresidential alcoholism or drug abuse recovery or treatment program or facility, as certified under Section 11831.5, or licensed under former Section 11834.19; and any facility that provides an organized program of therapeutic, social, and health activities and services to persons with functional impairments, as licensed under Section 1576.

(Added by Stats. 1991, c. 1094, § 3. Amended by Stats. 1992, c. 427, § 81.)

§ 129065. Availability of services to persons residing or employed in service areas; actions to assure compliance

As part of its assurance under subdivision (j) of Section 129050, the borrower shall agree to the following actions:

(a) To advise each person seeking services at the borrower's facility as to the person's potential eligibility for Medi-Cal and Medicare benefits or benefits from other governmental third party payers.

(b) To make available to the office and to any interested person a list of physicians with staff privileges at the borrower's facility, that includes:

(1) Name.

(2) Speciality.

(3) Language spoken.

(4) Whether takes Medi-Cal and Medicare patients.

(5) Business address and phone number.

(c) To inform in writing on a periodic basis all practitioners of the healing arts having staff privileges in the borrower's facility as to the existence of the facility's community service obligation. The required notice to practitioners shall contain a statement, as follows:

"This hospital has agreed to provide a community service and to accept Medi-Cal and Medicare patients. The administration and enforcement of this agreement is the responsibility of the Office of Statewide Health Planning and Development and this facility."

(d) To post notices in the following form, which shall be multilingual where the borrower serves a multilingual community, in appropriate areas within the facility, including but not limited to, admissions offices, emergency rooms, and business offices:

NOTICE OF COMMUNITY SERVICE OBLIGATION

"This facility has agreed to make its services available to all persons residing or employed in this area. This facility is prohibited by law from discriminating against Medi-Cal and Medicare patients. Should you believe you may be eligible for Medi-Cal or Medicare, you should contact our business office (or designated person or office) for assistance in applying. You should also contact our business office (or designated person or office) if you are in need of a physician to provide you with services at this facility. If you believe that you have been refused services at this facility in violation of the community service obligation you should inform (designated person or office) and the Office of Statewide Health Planning and Development."

The borrower shall provide copies of this notice for posting to all welfare offices in the county where the borrower's facility is located.

(Added by Stats. 1978, c. 1290, § 3.)

§ 129070. Eligibility upon presentation of plan for utilization of facilities by Medi-Cal patients

In the event the borrower cannot demonstrate that it meets the requirement of Section 129055, it may nonetheless be eligible for a loan under this chapter if it presents a plan that is satisfactory to the office, that details the reasonable steps and timetables that the borrower agrees to take to bring the facility into compliance with Section 129055.

(Added by Stats. 1978, c. 1290, § 4.)

§ 129075. Annual report on compliance with requirements of availability of services

Each borrower shall make available to the office and to the public upon request an annual report substantiating compliance with the requirements of subdivision (j) of Section 129050. The annual report shall set forth sufficient information and verification therefore to indicate the borrower's compliance. The report shall include at least the following:

(a) By category for inpatient admissions, emergency admission, and where the facility has a separate identifiable outpatient service:

(1) The total number of patients receiving services.

(2) The total number of Medi-Cal patients served.

(3) The total number of Medicare patients served.

(4) The dollar volume of services provided to each patient category listed in paragraphs (1), (2), and (3) of this subdivision.

(b) Where appropriate, the actions taken pursuant to Section 129070 and the effect the actions have had on the data specified in subdivision (a) of this section.

(c) Any other information as the office may reasonably require.
(Added by Stats. 1978, c. 1290, § 5.)

§ 129080. Remedies and sanctions upon determination of noncompliance

The office may impose appropriate remedies and sanctions against a borrower when the office determines that the annual compliance report required in Section 129075 indicates that the borrower is out of compliance with subdivision (j) of Section 129050. The sanctions shall include, but not be limited to, the following:

(a) Rendering the borrower ineligible for federal and state financial assistance under the Hill-Burton Program.

(b) Requiring a borrower that had originally met the conditions of Section 129055, but who no longer does, to submit a plan that is satisfactory to the office which details the reasonable steps and timetables that the borrower agrees to take to bring the facility back into compliance with Section 129055.

(c) Referring the violation to the office of the Attorney General of California for legal action authorized under existing law or other remedy at law or equity, when a facility fails to carry out the actions agreed to in a plan approved by the office pursuant to Section 129070 or subdivision (b) of this section, or when the facility fails to submit compliance reports as required by Section 129075.

However, the remedies obtainable by such legal action shall not include withdrawal or cancellation of the loan insurance provided under this chapter.

(Added by Stats. 1978, c. 1290, § 6.)

§ 129085. Eligibility despite inability to contract under Medi-Cal

(a) If a borrower is unable to comply with subdivision (j) of Section 129050 due to selective provider contracting under the Medi-Cal program, and the office has determined the borrower has negotiated in good faith but was not awarded a contract, the borrower may be eligible for insurance under this chapter as provided in subdivision (b).

(b) The office may determine that a noncontracting borrower shall be considered as meeting the requirements of subdivision (j) of Section 129050 if the borrower otherwise provides a community service in accordance with regulations adopted by the office. The regulations shall describe alternative methods of meeting the obligation, which may include, but not be limited to, providing free care, charity care, trauma care, community education, or primary care outreach and care to the elderly, in amounts greater than the community average. The regulations shall include a requirement that a general acute care hospital, that is not a small and rural hospital as defined in former Section 442.2, shall have, and continue to maintain, a 24-hour basic emergency medical service with a physician on duty, if it provided this service on January 1, 1990. The office shall have the authority to waive this requirement upon a determination by the director that this requirement would create a hardship for the hospital, be inconsistent with regionalization of emergency medical services, or not be in the best interest of the population served by the hospital.

(Added by Stats. 1989, c. 896, § 2.)

§ 129090. Eligibility of established facilities; applications

Political subdivisions and nonprofit corporations may apply for state insurance of needed construction, improvement, or expansion loans for construction, remodeling, or acquisition of health facilities to be or already owned, established, and operated by them as provided in this chapter. Applications shall be submitted to the office by the nonprofit corporation or political subdivision authorized to construct and operate a health facility. Each application shall conform to state requirements, shall be submitted in the manner and form prescribed by the office, and shall be accompanied by an application fee of one-half of 1 percent of the amount of the loan applied for, but in no case shall the application fee exceed five hundred dollars ($500). The fees shall be deposited by the office in the fund and used to defray the office's expenditures in the administration of this chapter.

(Added by Stats. 1969, c. 970, p. 1924, § 1. Amended by Stats. 1973, c. 1203, p. 2580, § 2; Stats. 1978, c. 429, § 98, eff. July 17, 1978, operative July 1, 1978; Stats. 1979, c. 1047, p. 3696, § 6, eff. Sept. 26, 1979.)

§ 129095. Professionals used by applicants for initial application for loan insurance; nonregulation

(a) The office shall not regulate, impose requirements on, or require approval by the office of a professional, or a fee charged by a professional, used by applicants for the initial application for loan insurance. The choice of any professional and the funding source used shall be left entirely to the participants.

(b) For purposes of this section, "professional" includes, but is not limited to, an underwriter, bond counsel, or consultant.

(c) Nothing in this section shall prohibit the office, in the event of defaults, from taking any action authorized under this chapter to protect the financial interest of the state.

(Added by Stats. 1992, c. 988, § 1.)

§ 129100. Hearing

Every applicant for insurance shall be afforded an opportunity for a fair hearing before the council upon 10 days' written notice to the applicant. If the office, after affording reasonable opportunity for development and presentation of the application and after receiving the advice of the council, finds that an application complies with the requirements of this article and of Section 129020 and is otherwise in conformity with the state plan, it may approve the application for insurance. The office shall consider and approve applications in the order of relative need set forth in the state plan in accordance with Section 129020. Judicial review of a final decision made under this section may be had by filing a petition for writ of mandate. Any petition shall be filed within 30 days after the date of the final decision of the office.

(Added by Stats. 1969, c. 970, p. 1924, § 1. Amended by Stats. 1978, c. 429, § 99, eff. July 17, 18 1978, operative July 1, 1978. Amended by Stats. 1996, c. 411 (S.B.1922), § 1.)

§ 129105. Authority to insure loans

The office may upon application of the borrower insure any loan that is eligible for insurance under this chapter; and upon terms as the office may prescribe, may make commitments for the insuring of the loans prior to their date of execution or disbursement thereon. The office may, for five years after the effective date of this chapter, accept and approve applications for insurance of loans executed during the period from and including November 5, 1968, to the effective date of this chapter.

(Added by Stats. 1969, c. 970, p. 1925, § 1. Amended by Stats. 1978, c. 429, § 100, eff. July 17, 1978, operative July 1, 1978.)

§ 129110. Incontestability

Any contract of insurance executed by the office under this chapter shall be conclusive evidence of the eligibility of the loan for insurance and the validity of any contract of insurance so executed shall be incontestable from the date of the execution of the contract, except in case of fraud or misrepresentation on the part of the lender.

(Added by Stats. 1969, c. 970, p. 1925, § 1. Amended by Stats. 1978, c. 429, § 101, eff, July 17, 1978, operative July 1, 1978.)

Article 3. DEFAULTS

Added by Stats. 1969, c. 970, p. 1925, § 1. Added by Stats. 1995, c. 415 (S.B.1360), §9.

§ 129125. Insurance benefits after foreclosure; transfer of title; determination of value

In any case when the lender under a loan to a nonprofit corporation insured under this chapter shall have foreclosed and taken possession of the property under a mortgage in accordance with regulations of, and within a period to be determined by the office, or shall, with the consent of the office, have otherwise acquired such property from the borrower after default, the lender shall be entitled to receive the benefit of the insurance as provided in this section, upon (a) the prompt conveyance to the office of title to the property that meets the

requirements of the regulations of the office in force at the time the loan was insured, and that is evidenced in the manner prescribed by the regulations, and (b) the assignment to the office of all claims of the lender against the borrower or others arising out of the loan transaction or foreclosure proceedings except claims that may have been released with the consent of the office. Upon such conveyance and assignment, the office shall notify the Treasurer, who shall issue to the lender debentures having a total face value equal to the outstanding value of the loan.

For the purposes of this section, the outstanding value of the loan shall be determined, in accordance with the regulations prescribed by the office, by (a) adding to the amounts of the original principal obligation of the loan and interest that are accrued and unpaid the amount of all payments that have been made by the lender for the following: taxes and assessments, ground rents, water rates, and other liens that are prior to the mortgage; charges for the administration, operation, maintenance and repair of the health facility property; insurance on the project property, loan insurance premiums, and any tax imposed by a city or county upon any deed or other instrument by which the property was acquired by the lender and transferred or conveyed to the office; and the costs of foreclosure or of acquiring the property by other means actually paid by the lender and approved by the office; and by (b) deducting from such total amount any amounts received by the lender after the borrower's default on account of the loans or as rent or other income from the property.

(Added by Stats. 1969, c. 970, p. 1925, § 1. Amended by Stats. 1978, c. 429, § 102, eff. July 17, 1978, operative July 1, 1978.)

§ 129130. Bond Defaults; replacement with state bonds

In any case when a political subdivision defaults on the payment of interest or principal accrued and due on bonds or other evidences of indebtedness insured under this chapter, debentures in an amount equal to the outstanding original principal obligation and interest on the bonds that were accrued and unpaid on the date of default and bearing interest at a rate equal to and payment schedule identical with those of the bonds shall be issued by the Treasurer upon notification thereof by the office to the bondholders upon the surrender of the bonds to the office.

In any case in which a hospital district defaults on the payment of interest or principal accrued and due on an insured loan secured by a first mortgage, first deed of trust, or other security agreement as authorized by Section 32127.2, debentures in an amount equal to the outstanding original principal obligation and interest on the bonds that were accrued and unpaid on the date of default and bearing interest at a rate equal to and payment schedule identical with those of the bonds shall be issued by the Treasurer upon notification thereof by the office to the bondholders upon surrender of the bonds to the office after the state has enforced its rights under the first mortgage, first deed of trust, or other security agreement.

(Added by Stats. 1969, c. 970, p. 1926, § 1. Amended by Stats. 1978, c. 429, § 103, eff. July 17, 1978, operative July 1, 1978; Stats. 1982, c. 1513, p. 5866, § 1.)

§ 129135. Alternative method of transferring title

Notwithstanding any requirement contained in this chapter relating to acquisition of title and possession of the project property by the lender and its subsequent conveyance and transfer to the office, and for the purpose of avoiding unnecessary conveyance expense in connection with payment of insurance benefits under the provisions of this chapter, the office may, subject to regulations that it may prescribe, permit the lender to tender to the office a satisfactory conveyance of title and transfer of possession direct from the borrower or other

appropriate grantor and to pay to the lender the insurance benefits to which it would otherwise be entitled if the conveyance had been made to the lender and from the lender to the office.

(Added by Stats. 1969, c. 970, p. 1926, § 1. Amended by Stats. 1978, c. 429, § 104, eff. July 17, 1978 operative July 1, 1978.)

§ 129140. Acquisition of loan and security interests

Upon receiving notice of the default of any loan insured under this chapter the office, in its discretion and for the purpose of avoiding foreclosure under Section 129125 and notwithstanding the fact that it has previously approved a request of the lender for extensions of the time for curing the default and of the time for commencing foreclosure proceedings or for otherwise acquiring title to the project property, or has approved a modification of the loan for the purpose of changing the amortization provisions by recasting the unpaid balance, may acquire the loan and security agreements securing the loans upon the issuance to the lender of debentures in an amount equal to the unpaid principal balance of the loan plus any accrued unpaid loan interest plus reimbursement for the costs and attorney's fees of the lender enumerated in Section 129125.

After the acquisition of the loan and security interests therefor by the office, the lender shall have no further rights, liabilities, or obligations with respect thereto. The provisions of Section 129125 relating to the issuance of debentures incident to the acquisition of foreclosed properties shall apply with respect to debentures issued under this section, and the provisions of this chapter relating to the rights, liabilities, and obligations of a lender shall apply with respect to the office when it has acquired an insured loan under this section, in accordance with and subject to any regulations prescribed by the office modifying such provisions to the extent necessary to render their application for these purposes appropriate and effective.

(Added by Stats. 1969, c. 970, p. 1926, § 1. Amended by Stats. 1978, c. 429, § 105, eff. July 17, 1978, operative July 1, 1978.)

§ 129145. Cure of default

Notwithstanding any other provision of this chapter, after the office determines that the lender and borrower have exhausted all reasonable means of curing any default, the office within its discretion may, when it is in the best interests of the state, the borrower, and the lender, cure the default of the borrower by making payment from the fund directly to the lender of any amounts of the original principal obligation and interest of the loan that are accrued and unpaid. The payment shall be secured by an assignment to the office of a pro rata share of the security agreements made to the lender and, upon such payment, the borrower shall become liable for repayment of the amount thereof to the office over a period and at a rate of interest as shall be determined by the office.

(Added by Stats. 1969, c. 970, p. 1927, § 1. Amended by Stats. 1978, c. 429, § 106, eff. July 17, 1978, operative July 1, 1978.)

§ 129150. Consent to release from liability

The office may at any time, under the terms and conditions that it may prescribe, consent to the lender's release of the borrower from its liability under the loan or the security agreement securing the loan, or consent to the release of parts of the project property from the lien of any security agreement.

(Added by Stats. 1969, c. 970, p. 1927, § 1. Amended by Stats. 1978, c. 429, § 107, eff. July 17, 1978, operative July 1, 1978.)

§ 129155. Form and denomination of debentures

Debentures issued under this chapter shall be in the form and denomination subject to the terms and conditions, and include provisions for redemption, if any, as may be prescribed by the office with the approval of the Treasurer, and may be in coupon or registered form.

(Added by Stats. 1969, c. 970, p. 1927, § 1. Amended by Stats. 1978, c. 429, § 108, eff. July 17, 1978, operative July 1, 1978; Stats. 1990, c. 726, § 1.)

§ 129160. Execution of debenture; negotiability; interest; tax exemption; payment; default

(a) All debentures issued under this chapter to any lender or bondholder shall be executed in the name of the fund as obligor, shall be signed by the State Treasurer, and shall be negotiable. Pursuant to Section 129125 and Section 129130, all debentures shall be dated as of the date of the institution of foreclosure proceedings or as of the date of the acquisition of the property after default by other than foreclosure, or as of another date as the office, in its discretion, may establish. The debentures shall bear interest from that date at a rate approved by the State Treasurer, equal to either the rate applicable to the most recent issue of State General Fund bonds or that specified in Section 129130, which shall be payable on the dates as the office, in its discretion, may establish except in the case of bonds or other evidences of indebtedness as specified in Section 129130, and shall have the same maturity date as the loan which they insured. All debentures shall be exempt, both as to principal and interest, from all taxation now or hereafter imposed by the state or local taxing agencies, shall be paid out of the fund, which shall be primarily liable therefor, and shall be, pursuant to Section 4 of Article XVI of the California Constitution, fully and unconditionally guaranteed as to principal and interest by the State of California, which guaranty shall be expressed on the face of the debentures. In the event that the fund fails to pay upon demand, when due, the principal of or interest on any debentures issued under this chapter, the State Treasurer shall pay to the holders the amount thereof which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the State Treasurer shall succeed to all the rights of the holders of the debentures. The fund shall be liable for repayment to the Treasury of any money paid therefrom pursuant to this section in accordance with procedures jointly established by the State Treasurer and the office.

(b) In the event of a default, any debenture issued under this article shall be paid on a par with general obligation bonds issued by the state.

(Added by Stats. 1969, c. 970, p. 1928, § 1. Amended by Stats. 1978, c. 429, § 109, eff. July 17, 1978, operative July 1, 1978; Stats. 1990, c. 726, § 2; Stats. 1994, c. 414, p. 6, § 6, eff. Sept. 1, 1994, Senate Bill No. 1705.)

§ 129165. Power to deal with and dispose of acquired property

Notwithstanding any other provision of law relating to the acquisition, management or disposal of real property by the state, the office shall have power to deal with, operate, complete, lease, rent, renovate, modernize, insure, or sell for cash or credit, in its discretion, any properties conveyed to it in exchange for debentures as provided in this chapter; and notwithstanding any other provision of law, the office shall also have power to pursue to final collection by way of compromise or otherwise all claims against borrowers assigned by

lenders to the office as provided in this chapter. All income from the operation, rental, or lease of the property and all proceeds from the sale thereof shall be deposited in the fund and all costs incurred by the office in its exercise of powers granted in this section shall be met by the fund.

The power to convey and to execute in the name of the office deeds of conveyance, deeds of release, assignments and satisfactions of loans and mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the office pursuant to the provisions of this chapter may be exercised by the office or by any officer of the office appointed by it.

(Added by Stats. 1969, c. 970, p. 1926, § 1. Amended by Stats. 1978, c. 429, § 110, eff. July 17, 1978, operative July 1, 1978.)

§ 129170. Loss of rights to property conveyed

No lender or borrower shall have any right or interest in any property conveyed to the office or in any claim assigned to it, nor shall the office owe any duty to any lender or borrower with respect to the management or disposal of this property.

(Added by Stats. 1969, c. 970, p. 1928, § 1. Amended by Stats. 1978, c. 429, § 111, eff. July 17, 1978, operative July 1, 1978.)

§ 129172. Judicial proceeding or action taken prior to foreclosing on collateral; application of specified Code of Civil Procedure sections

Notwithstanding any other provision of law, if, prior to foreclosing on any collateral provided by a borrower, the office institutes a judicial proceeding or takes any action against a borrower to enforce compliance with the obligations set out in the regulatory agreement, the contract of insurance, or any other contractual loan closing document or law, including, but not limited to, Section 129173, that remedy or action shall not constitute an action within the meaning of subdivision (a) of Section 726 of the Code of Civil Procedure, or in any way constitute a violation of the intent or purposes of Section 726 of the Code of Civil Procedure, or constitute a money judgment or a deficiency judgment within the meaning of Sections 580a, 580b, 580d, or subdivision (b) of Section 726 of the Code of Civil Procedure. However, these provisions of the Code of Civil Procedure shall apply to any judicial proceeding instituted, or nonjudicial foreclosure action taken by the office to collect the principal and interest due on the loan with the borrower.

(Added by Stats. 1994, c. 414, p. 7, § 7, eff. Sept. 1, 1994, Senate Bill No. 1705.)

§ 129173. Managerial or financial control of borrower; conditions warranting; methods

In fulfilling the purposes of this article, as set forth in Section 129005, and upon making a determination that the financial status of a borrower may jeopardize a borrower's ability to fulfill its obligations under any insured loan transaction so as to threaten the economic interest of the office in the borrower or to jeopardize the borrower's ability to continue to provide needed healthcare services in its community, including, but not limited to, a declaration of default under any contract related to the transaction, the borrower missing any payment to its lender, or the borrower's accounts payable exceeding three months, the office may assume or direct managerial or financial control of the borrower in any or all of the following ways:

(a) The office may supervise and prescribe the activities of the borrower in the manner and under the

terms and conditions as the office may stipulate in any contract with the borrower.

(b) Notwithstanding the provisions of the articles of incorporation or other documents of organization of a nonprofit corporation borrower, this control may be exercised through the removal and appointment by the office of members of the governing body of the borrower sufficient such that the new members constitute a voting majority of the governing body.

(c) In the event the borrower is a nonprofit corporation or a political subdivision, the office may request the Secretary of the Health and Welfare Agency to appoint a trustee, this trustee shall have full and complete authority of the borrower over the insured project, including all property on which the office holds a security interest. No trustee shall be appointed unless approved by the office. A trustee appointed by the secretary pursuant to this subdivision may exercise all the powers of the officers and directors of the borrower, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the office or a trustee by reason of their exercising the powers of the officers and directors of a borrower pursuant to the direction of, or with the approval of, the secretary.

(d) The office may institute any action or proceeding, or the office may request the Attorney General to institute any action or proceeding against any borrower, to obtain injunctive or other equitable relief, including the appointment of a receiver for the borrower or the borrower's assets, in the superior court in and for the county in which the assets or a substantial portion of the assets are located. The proceeding under this section for injunctive relief shall conform with the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the office shall not be required to allege facts necessary to show lack of adequate remedy at law, or to show irreparable loss or damage. Injunctive relief may compel the borrower, its officers, agents, or employees to perform each and every provision contained in any regulatory agreement, contract of insurance, or any other loan closing document to which the borrower is a party, or any obligation imposed on the borrower by law, and require the carrying out of any and all covenants and agreements and the fulfillment of all duties imposed on the borrower by law or such documents.

A receiver may be appointed pursuant to Chapter 5 (commencing with Section 564) of Title 7 of Part 2 of the Code of Civil Procedure. Upon a proper showing, the court shall grant the relief provided by law and requested by the office or the Attorney General. No receiver shall be appointed unless approved by the office. A receiver appointed by the superior court pursuant to this subdivision and Section 564 of the Code of Civil Procedure may, with the approval of the court, exercise all of the powers of the officers and directors of the borrower, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the office, the Attorney General, or a receiver by reason of their exercising the powers of the officers and directors of a borrower pursuant to the order of, or with the approval of, the superior court.

(e) The borrower shall inform the office in advance of all meetings of its governing body. The borrower shall not exclude the office from attending any meeting of the borrower's governing body.

(f) Other than the loan insured under this chapter, the office shall not be liable for any debt of a borrower, or to a borrower, as a result of the office asserting its legal remedies against a borrower insured under this chapter.

(Added by Stats. 1994, c. 414, p. 7, § 8, eff. Sept. 1, 1994, (S.B.1705). Amended by Stats. 1996, c. 411 (S.B.1922), § 2.)

§ 129174. Loan payments; defeasance of bonds

In the event a borrower has defaulted in making its payments on he loan insured by the office to the borrower's bond trustee, at any time thereafter, the office may defease a portion or all of the bonds or may purchase a portion or all of the bonds at a private or public sale or on the open market. For this purpose, the office may use any funds available, including, but not limited to, funds in the Health Facility Construction Loan Insurance Fund, funds that the office may receive either from settlement or recoveries from lawsuits, funds from the sale of assets of the borrower, or funds held by the borrower's bond trustee. If requested by the office, the Treasurer shall purchase the bonds on behalf of the office. Upon the purchase of any bonds under this section, the office shall direct the borrower's bond trustee to cancel the bonds purchased.

For the purposes of this section, "bonds" means bonds, certificates of participation, notes, or other evidence of indebtedness of a loan insured by the office.

(Added by Stats. 1996, c. 411 (S.B.1922), § 3.)

§ 129174.1 Bankruptcy; loan insured by office; plans

In the event a loan insured by the office has gone into bankruptcy and that a plan has been proposed for adoption, upon a certification by the office that the insurance is in place and would be in place if the plan were adopted, then the office shall have the right to vote on the plan on behalf of the holders of the loan insured by the office.

(Added by Stats. 1996, c. 411 (S.B.1922), § 4.)

Article 4. TERMINATION OF INSURANCE

Added by Stats. 1969, c. 970, p. 1929, § 1. Added by Stats. 1995, c. 415 (S.B.1360), §9.

§ 129175. Delinquent payment of premiums and inspection fees

Should a borrower be more than 10 days delinquent in paying the premium charges or inspection fees for insurance under this chapter, the office shall notify the borrower in writing. If that payment remains delinquent more that 30 days after the sending of the office's notice to the borrower, the office shall make every reasonable effort to notify the lender in writing. If that delinquency continues, on the 31st day after sending of the office's notice to the lender, the insurance shall be terminated and become null and void.

(Added by Stats. 1969, c. 970, p. 1929, § 1. Amended by Stats. 1978, c. 429, § 112, eff. July 17, 1978, operative July 1, 1978.)

§ 129180. Foreclosure without conveyance to office; payment of debt

The obligation to pay any subsequent premium charge for insurance shall cease, and all rights of the lender and the borrower under this chapter shall terminate as of the date of such notice, as herein provided, in the event that (a) any lender under a loan forecloses on the mortgaged property, or has otherwise acquired the project property from the borrower after default, but does not convey the property to the office in accordance with this chapter, and the office is give written notice thereof, or (b) the borrower pays the obligation under the loan in full prior to the maturity thereof, and the office is given written notice thereof.

(Added by Stats. 1969, c. 970, p. 1929, § 1. Amended by Stats. 1978, c. 429, § 113, eff. July 17, 1987,

operative July 1, 1978.)

§ 129185. Joint request

The office is authorized to terminate any insurance contract upon joint request by the borrower and the lender and upon payment of a termination charge that the office determines to be equitable, taking into consideration the necessity of protecting the fund. Upon the termination, borrowers and lenders shall be entitled to the rights, if any, that they would be entitled to under this chapter if the insurance contract were terminated by payment in full of the insured loan.

(Added by Stats. 1969, c. 970, p. 1924, § 1. Amended by Stats. 1978, c. 429, § 114, eff. July 17, 1978, operative July 1, 1978.)

Article 5. HEALTH FACILITY CONSTRUCTION LOAN INSURANCE FUND

Added by Stats. 1969, c. 970, p. 1929, § 1. Added by Stats. 1995, c. 415 (S.B.1360), §9.

§ 129200. Establishment

There is hereby established a Health Facility Construction Loan Insurance Fund, that shall be used by the office as a revolving fund for carrying out the provisions and administrative costs of this chapter. The money in the fund is hereby appropriated to the office without regard to fiscal years for the purposes of this chapter.

(Added by Stats. 1969, c. 970, p. 1929, § 1. Amended by Stats. 1978, c. 429, § 115, eff. July 17, 1978, operative July 1, 1978.)

§ 129205. Investment of surplus funds

Moneys in the fund not needed for the current operations of the office under this chapter shall be invested pursuant to law. The office may, with the approval of the State Treasurer, purchase the debentures issued under this chapter. Debentures so purchased shall be canceled and not reissued.

(Added by Stats. 1969, c. 970, p. 1930, § 1. Amended by Stats. 1978, c. 429, § 116, eff. July 17, 1978, operative July, 1, 1978.)

§ 129210. Limit on authorized insurance

(a) The office's authorization to insure health facility construction, improvement, and expansion loans under this chapter shall be limited to a total of not more than two billion five hundred million dollars ($2,500,000,000). However, when the office completes the state plan as is required by Section 129020, and the plan is approved by the Governor and submitted to the legislative committees referred to in that section by December 31, 1992, and the plan includes a finding that the limit should be further increased, then the limit shall be increased on January 1, 1993, from two billion five hundred million dollars ($2,500,000,000) to three billion dollars ($3,000,000,000).

(b) Notwithstanding the limitation in subdivision (a), the office may exceed the specific dollar limitation in either of the following instances:

(1) Refinancing a preexisting loan, if the refinancing results in savings to the health facility and increases the probability that a loan can be repaid.

(2) The need for financing results from earthquakes or other natural disasters.

(Amended by Stats. 1991, c. 753, § 3; Stats. 1992, c. 1031, § 1; Stats. 1993, c. 473, § 1.)

§ 129215. Nature of fund; use of funds and interest

The Health Facility Construction Loan Insurance Fund, established pursuant to Section 129200, shall be a trust fund and neither the fund nor the interest or other earnings generated by the fund shall be used for any purpose other than those purposes authorized by this chapter.

(Added by Stats. 1994, c. 414, p. 9, § 9, eff. Sept. 1, 1994, Senate Bill No. 1705.)

Article 6. COMMUNITY MENTAL HEALTH FACILITIES LOAN INSURANCE

Added by Stats. 1978, c. 1230, § 1. Added by Stats. 1995, c. 415 (S.B.1360), §9.

§ 129255. Short title

This article shall be known as, and may be cited as, the Community Mental Health Facilities Loan Insurance Law.

(Added by Stats. 1978, c. 1230, § 1.)

§ 129230. Development of mental health facilities; legislative intent; special provisions

It is the intent of the Legislature in enacting this article to encourage the development of facilities for community-based programs that assist mental health clients living in any institutional setting, including state and local inpatient hospitals, skilled nursing homes, intermediate care facilities, and community care facilities to move to more independent living arrangements. It is further the intent of the Legislature to encourage local programs to seek funding for facility development from private sources and with the assistance provided pursuant to this chapter.

To achieve this purpose in determining eligibility for loan insurance pursuant to this chapter, the following special provisions apply to facilities approved in the county Short-Doyle plan and meeting the intentions of this article:

(a) Facilities shall not require approval pursuant to Section 129295 by the statewide system of health facility planning, the area health planning agency, or the Health Advisory Council, for the issuance of loan insurance, unless specifically required for the facilities by the facility category of licensure.

(b) Notwithstanding subdivision (i) of Section 129050, any loan of under three hundred thousand dollars ($300,000) for a nonprofit corporation as well as a political subdivision may be fully insured equal to the total construction cost, except a loan to any proprietary corporation that is insured pursuant to subdivision (d) of this section.

(c) The State Department of Mental Health or the local mental health program may provide all application fees, inspection fees, premiums and other administrative payments required by this chapter, except with respect to any loan to a proprietary corporation that is insured pursuant to subdivision (d) of this section.

(d) The borrower may be a proprietary corporation, provided that the facility is leased to the local mental health program for the duration of the insurance agreement. In these instances, all provisions in this chapter and this article that apply to a nonprofit corporation shall apply to the proprietary corporation, except as provided in subdivisions (b) and (c) of this section.

(e) For the purposes of this article, subdivision (c) of Section 129010 shall include the purchase of

existing buildings.

(f) Facilities shall not require approval pursuant to Section 129020 by the statewide system of health facility planning, the area health planning agency, or the Health Advisory Council, for the issuance of loan insurance, until the director of the office and the Director of the Department of Mental Health determine that the state plan developed pursuant to Section 129020 adequately and comprehensively addresses the need for community mental health facilities and that finding is reported to the appropriate policy committees of the Legislature.

(Amended by Stats. 1979, c. 1230, § 1. Amended by Stats. 1979, c. 373, p. 1329, § 181.)

§ 129235. Loans under $300,000; priority

Loans of under three hundred thousand dollars ($300,000) for any single facility shall have priority for obtaining loan insurance under the special provisions established pursuant to Section 129230.

(Added by Stats. 1978, c. 1230, § 1.)

§ 129240. Total amount of loans which may be insured pursuant to this article

The total amount of loans that may be insured pursuant to this article shall not exceed fifteen million dollars ($15,000,000).

(Added by Stats. 1978, c. 1230, § 1.)

§ 129245. Loan insurance for providing certain psychiatric inpatient services; prohibition

No loan insurance shall be provided pursuant to this article for the purpose of providing psychiatric inpatient services in an acute psychiatric hospital or a general acute care hospital.

(Added by Stats. 1978, c. 1230, § 1.)

§ 129250. Utilization and effectiveness of article; review and comment by legislative analyst

The Legislative Analyst shall review and comment on the utilization and effectiveness of this article in the annual budget analysis and in hearings.

(Added by Stats. 1978, c. 1230, § 1.)

§ 129255. Conflicts with other provisions; prevailing provisions

If, in construing Article 6 (commencing with Section 129225) of this chapter as applied to the other provisions of this chapter, any conflict arises, this article shall prevail over the other provisions of this chapter.

(Added by Stats. 1978, c. 1230, § 1.)

§ 129260. Severability

If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

(Added by Stats. 1978, c. 1230, § 1.)

Article 7. SMALL FACILITY LOAN GUARANTEE FOR DEVELOPMENTAL DISABILITY

PROGRAMS

Added by Stats. 1978, c. 896, § 1. Added by Stats. 1995, c. 415 (S.B.1360), §9.

§ 129275. Short title

This article shall be known and may be cited as the Small Facility Loan Guarantee for Developmental Disability Programs.

(Added by Stats. 1978, c. 896, § 1.)

§ 129280. Development of facilities for developmentally disable clients; legislative intent; special provisions

It is the intent of the Legislature in enacting this article to encourage the development of facilities for community-based programs that assist developmentally disabled clients living in any institutional setting, including state and local inpatient hospitals, skilled nursing homes, intermediate care facilities, and community care facilities to move to more independent living arrangements. It is further the intent of the Legislature to encourage local programs to seek funding for facility development from private sources and with the assistance provided pursuant to this chapter.

To achieve this purpose in determining eligibility for loan insurance pursuant to this chapter, the following special provisions apply to facilities approved by area developmental disabilities boards and meeting the intentions of this article:

(a) Facilities shall not require approval pursuant to Section 129295 by the statewide system of health facility planning, the area health planning agency, or the Health Advisory Council, for the issuance of loan insurance, unless specifically required for the facilities by the facility category of licensure.

(b) Notwithstanding subdivision (i) of Section 129050, any loan of under three hundred thousand dollars ($300,000) for a nonprofit corporation as well as a political subdivision may be fully insured equal to the total construction cost.

(c) Facilities shall not require approval pursuant to Section 129020 by the statewide system of health facility planning, the area health planning agency, or the Health Advisory Council, for the issuance of loan insurance, until the director of the office and the Director of the Department of Developmental Services determine that the state plan developed pursuant to Section 129020 adequately and comprehensively addresses the need for community developmental services facilities and that finding is reported to the appropriate policy committees of the Legislature.

(Added by Stats. 1978, c.896, § 1.)

§ 129285. Loans under $300,000; priority; maximum aggregate amount insurable

(a) Loans of under three hundred thousand dollars ($300,000) for any single facility for six or fewer developmentally disabled shall have priority for obtaining loan insurance.

(b) The total amount of loans that may be insured pursuant to this article shall not exceed fifteen million dollars ($15,000,000).

(Added by Stats. 1978, c. 896, § 1.)

§ 129290. Severability

If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid

provision of application, and to this end the provisions of this article are severable.

(Added by Stats. 1978, c. 896, § 1.)

§ 129295. Pilot loan guarantee program; limitations; report

The office shall establish a pilot program under this article of insuring loans to nonprofit borrowers that are not licensed to operate the facilities for which the loans are insured. The number of facilities for which loans are insured under this section shall not exceed 30 and the aggregate amount of loans insured under this section shall not exceed six million dollars ($6,000,000), that may be in addition to the maximum loan insurance amount otherwise authorized by subdivision (b) of Section 129285. Construction of all projects assisted under this section shall be commenced on or before January 1, 1990.

The office may delay processing or decline acceptance of loan guarantee applications under this section if the volume of applications becomes too large for existing staff to process in a timely manner or if risks associated with the pilot program are determined by the office to be unreasonable.

The office shall submit a report to the Legislature, on or before January 1, 1991, specifically identifying potential problems and financial risks associated with insuring loans authorized by this section.

(Added by Stats. 1988, c. 1319, § 1. Amended by Stats. 1996, c. 1023 (S.B.1497), § 370, eff. Sept. 29, 1996.)

[§ 436.45. Insurance; pilot program; report]

Article 9. RURAL HOSPITAL GRANT PROGRAM

Added by Stats. 1989, c. 898, § 3. Added by Stats. 1995, c. 415 (S.B.1360), §9.

§ 129325. Assisting rural health delivery systems; Legislative intent

It is the intent of the Legislature in enacting this article to assist rural hospitals which play a vital role in the health delivery system. The Legislature recognizes the difficulties rural hospitals encounter meeting urban hospital standards while serving a small, rural, or tourist patient base. However, it is not the intent of the Legislature to provide assistance to facilities that can only survive with continuous subsidies. Rather, it is the intent of the Legislature, through this program, to encourage the development and transition to an alternative rural hospital model, and to provide essential access to services not available at the alternative rural hospital level.

(Added by Stats. 1989, c. 898, § 3.)

§ 129330. Actuarial study; contracts

In each even-numbered year, the office shall contract for an actuarial study to determine the reserve sufficiency of funds in the Health Facility Construction Loan Insurance Fund. The study shall examine the portfolio of existing insured loans and shall estimate the amount of reserve funds that the office should reasonably have available to be able to respond adequately to potential foreseeable risks, including extraordinary administrative expenses and actual defaults. Actuarial study contracts shall be exempt from Section 10373 of the Public Contract Code and shall be considered sole-source contracts.

(Added by Stats. 1989, c. 898, § 3.)

§ 129335. Grant Program; administration

(a) In each odd-numbered year when the reserve balance in the fund is projected to be in excess of that actuarially needed, the office may, subject to authority in the Budget Act, grant excess reserve funds to rural hospitals.

(b) Whenever the office administers the grant program, it shall do so by a competitive process where potential grantees have sufficient time to apply. Priority for funds shall be given to alternative rural hospitals and rural hospitals that are sole community providers. Priority shall also be given to applicants that are otherwise financially viable, but request one-time financial assistance for equipment expenditures or other capital outlays. The maximum amount of any grant for a single project in any one grant year shall be two hundred fifty thousand dollars ($250,000).

(c) For the purpose of this article, "rural hospital" shall have the same meaning as contained in subdivision (a) of Section 124840.

(Added by Stats. 1989, c. 898, § 3.)

ARTICLE 10. COMMUNITY HEALTH CENTER FACILITIES LOAN INSURANCE

Added by Stats. 1991, c. 1094, § 2. Added by Stats. 1995, c. 415 (S.B.1360), §9.

§ 129350. Short title

This article shall be known and may be cited as the Community Health Center Facilities Loan Insurance Law.

(Formerly § 436.70, added by Stats. 1991, c. 1094, § 2. Renumbered § 436.495 and amended by Stats. 1992, c. 427, § 79.)

§ 129355. Community health center facilities; construction loan insurance; valuation of equity; impediments; specific programmatic remedies

(a) "Community health center facilities," as used in this article, means those licensed, nonprofit primary care clinics as defined in paragraph (1) of subdivision (a) of Section 1204.

(b) Notwithstanding subdivision (i) of Section 129050, any loan in the amount of five million dollars ($5,000,000) or less for a community health center facility pursuant to this chapter may be insured up to 95 percent of the total construction cost.

(c) Community health center facilities applying for any loan insurance pursuant to this chapter, may use existing equity in buildings, equipment, and donated assets, including, but not limited to, land and receipts from expenses related to the capital outlay for the project, notwithstanding the date of occurrence to meet the equity requirements of this chapter. In determining the value of the equity in any donated property, the office may use the original purchase price or the current appraised value.

(d) Any state plan referred to in Section 129020 developed by the office shall include a chapter identifying any impediments that preclude small facilities from utilizing the California Health Facility Construction Loan Insurance Program. The state plan shall also include specific programmatic remedies to enable small projects to utilize the program if impediments are found.

(Formerly § 436.75, added by Stats. 1991, c. 1094, § 2. Renumbered § 436.496 and amended by Stats. 1992, c. 427, § 80.)

CODE OF CIVIL PROCEDURE

§ 564. _____

(a) A receiver may be appointed, in the manner provided in this chapter, by the court in which an action or proceeding is pending in any case in which the court is empowered by law to appoint a receiver.

(b) In superior court a receiver may be appointed by the court in which an action or proceeding is pending, or by a judge thereof, in the following cases:

(1) . . .

(9) At the request of the Office of Statewide Health Planning and Development, or the Attorney General, pursuant to Section 129173 of the Health and Safety Code.

(Added by Stats. 1994, c. 414, p. 3, § 2, eff. Sept. 1, 1994, Senate Bill No. 1705.)

GOVERNMENT CODE

PART 7.2 HEALTH FACILITIES FINANCING AUTHORITY ACT

§ 15432. Definitions

As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means the California Health Facilities Financing Authority Act.

(b) "Authority" means the California Health Facilities Financing Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion of a project financed under this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period not to exceed the later of one year or one year following completion of construction, as determined by the authority, the cost of funding or financing noncapital expenses, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses of funding or financing or necessary or incident to determining the feasibility of constructing, any project or incident to the construction or acquisition or financing of any project.

(d) "Health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, or developmental disability, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, except in the cases of county outpatient facilities, adult day care facilities, as defined under paragraph (2) of

subdivision (a) of Section 1502 of the Health and
Safety Code, which provide services to developmentally disabled or mentally impaired persons, community clinics, as defined in paragraph (6), and child day care facilities, as defined in paragraph (10), and includes all of the following types:

(1) A general acute care hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility which is a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility which is a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental or maternity.

(6) A community clinic which is a clinic operated by a tax-exempt nonprofit corporation which is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, which may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3)of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended[1], or a statutory successor thereof,shall operate a community clinic. However, the licensee of any community clinic so licensed on September 26, 1978, shall not be required to obtain tax-exempt status under either federal or state law. No natural person or persons shall operate a community clinic.

(7) An adult day health center which is a facility, as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, which provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

(8) Any other type of facility for the provision of inpatient or outpatient care which is a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, (without regard to whether funding is provided for the facility under that section).

(9) A multilevel facility is an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this paragraph, means a person 62 years of age or older.

(10) A child day care facility operated in conjunction with a health facility. A child day care facility is a

facility, as defined in Section 1596.750 of the Health and Safety Code. For purposed of this paragraph, "child" means a minor from birth to 18 years of age.

(11) An intermediate care facility/developmentally disabled habilitative which is a health facility, as defined under subdivision (e) of Section 1250 of the Health and Safety Code.

(12) An intermediate care facility/developmentally disabled-nursing which is a health facility, as defined under subdivision (h) of Section 1250 of the Health and Safety Code.

(13) A community care facility which is a facility, as defined under subdivision (a) of Section 1502 of the Health and Safety Code, which provides care, habilitation, rehabilitation, or treatment services to developmentally disabled or mentally impaired persons.

(14) A nonprofit community care facility, as defined in subdivision (a) of Section 1502 of the Health and Safety Code, other than a facility which, as defined in that subdivision, is a residential facility for the elderly, a foster family agency, a foster family home, a full service adoption agency, or a noncustodial adoption agency.

(15) A nonprofit accredited community work-activity program, as specified in subdivision (e) of Section 19352 and Section 19355 of the Welfare and Institutions Code.

"Health facility" includes a clinic which is described in subdivision (l) of Section 1206 of the Health and Safety Code.

"Health facility" includes the following facilities, if operated in conjunction with one of more of the above types of facilities: a laboratory, laundry, nurses or interns residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility.

"Health facility" also includes: (i) an insurance company or insurance program organized pursuant to subdivision (q) of Section 15438; or (ii) the funding of reserves (including insurance or capital reserves), or payment of premiums to, a reciprocal insurance company or one or more participating health institutions if the funds are used in connection with one or more of the above types of facilities: liability insurance or self-insurance, for a participating health institution, including reserves therefor, and other funds necessary or usual and appropriate in connection therewith.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a city, city and county, county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project or of working capital as provided in this part.

(f) "Project" means construction, expansion, remodeling, renovations, furnishing, or equipping, or funding or financing of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part to this part. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

(g) "Working capital" means moneys to be used by, or on behalf of, a participating health institution to pay or prepay maintenance or operation expenses or any other costs that would be treated as an expense item, under generally accepted accounting principles, in connection with the ownership or operation of a health facility, including, but not limited to, reserves for maintenance or operation expenses, interest for not to exceed

one year on any loan for working capital made pursuant to this part, and reserves for debt service with respect to, and any costs necessary or incidental to, that financing.

(Added by Stats. 1979, c. 1033, § 1. Amended by Stats. 1980, c. 911, § 1, eff. Sept. 17, 1980; Stats. 1982, c. 1351, § 2.1, operative Jan. 1, 1981; Stats. 1982, c. 156, p. 519, § 1, eff. April 9, 1982; Stats. 1983, c. 665, § 1; Stats. 1983, c. 1228, § 1, eff. Sept. 30, 1983; Stats. 1983, c. 1242, § 1.7, operative Jan. 1, 1984; Stats. 1985, c. 349, § 4, eff. July 29, 1985; Stats. 1985, c. 829, § 1, eff. Sept. 19, 1985; Stats. 1985, c. 1346, § 1, eff. Oct. 1, 1985; Stats. 1986, c. 39, § 1, eff. March 31, 1986; Stats. 1987, c. 1426, § 2, eff. Sept. 30, 1987; Stats. 1988, c. 691, § 1; Stats. 1989, c. 505, § 1.)

§ 15436. Quorum; open meetings; publication of resolutions; delegation of powers

Five members of the authority shall constitute a quorum. The affirmative vote of a majority of a quorum shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Each meeting of the authority shall be open to the public and shall be held in accordance with the provisions of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1). Resolutions of the authority need not be published or posted. The authority may delegate by resolution to one or more of its members or its executive director such powers and duties as it may deem proper. The authority may delegate to the executive director the power to enter contracts on behalf of the authority.

(Added by Stats. 1979, c. 1033, § 1. Amended by Stats. 1983, c. 1242, §2; Stats. 1991, c. 919, § 6; Stats. 1992, c. 509, § 4; Stats. 1993, c. 589, § 70.)

§ 15438. Powers (subsection (q) only)

Subject to the conditions, restrictions, and limitations of Section 15438.1, the authority may do any of the following:

(a) . . .

(q) Establish and maintain a reciprocal insurance company or an insurance program that shall be treated and licensed as a reciprocal insurance company for regulatory purposes under the Insurance Code on behalf of one or more participating health institutions, to provide for payment of judgments, settlement of claims, expense, loss and damage that arises, or is claimed to have arisen, from any act or omission of, or attributable to, the participating health institution or any nonprofit organization controlled by, or controlling or under common control with, the participating health institution, their employees, agents or others for whom they may be held responsible, in connection with any liability insurance (including medical malpractice); set premiums, ascertain loss experience and expenses and determine credits, refunds, and assessments; and establish limits and terms of coverage; and engage any expert or consultant it deems necessary or appropriate to manage or otherwise assist with the insurance company or program; and pay any expenses in connection therewith; and contract with the participating health institution or institutions for insurance coverage from the insurance company or program and for the payment of any expenses in connection therewith including any bonds issued to fund or finance the insurance company or program.

§ 15438.2. Child day care facility; term of lease to be as long as or greater than term of loan; insurability under California health facility construction loan insurance law.

(a) When capital outlay funds are granted on property which is leased for a child day care facility, the term of the lease shall be as long as, or greater than, the term of the loan.

(b) Child day care facilities shall be insurable under the California Health Facility Construction Loan Insurance Law.

(Added by Stats. 1985, c. 829, § 2, eff. Sept. 19, 1985.)

§ 15438.5. Legislative intent; revenue bonds and other financing; self insurance pooling program; bond rating guidelines; enforcement conditions

(a) It is the intent of the Legislature in enacting this part to provide financing only, and, except as provided in subdivision (b), (c), and (d) only to health facilities which can demonstrate the financial feasibility of their projects without regard to the more favorable interest rates anticipated through the issuance of revenue bonds under this part. It is further the intent of the Legislature that all or part of any savings experienced by a participating health institution, as a result of that tax-exempt revenue bond funding, be passed on to the consuming public through lower charges or containment of the rate of increase in hospital rates. It is not the intent of the Legislature in enacting this part to encourage unneeded health facility construction. Further, it is not the intent of the Legislature to authorize the authority to control or participate in the operation of hospitals, except where default occurs or appears likely to occur.

(b) When determining the financial feasibility of projects for county health facilities, the authority shall consider the more favorable interest rates reasonably anticipated through the issuance of revenue bonds under this part. It is the intent of the Legislature that the authority attempt in whatever ways possible to assist counties to arrange projects which will meet the financial feasibility standards developed under this part.

(c) The authority may issue revenue bonds pursuant to this part to finance the development of a multilevel facility, or any portion of a multilevel facility, including the portion licensed as a residential facility for the elderly, if the skilled nursing facility, intermediate care facility, or general acute care hospital is operated or provided by an eligible participating health institution.

(d) The authority may issue revenue bonds pursuant to this part, if the bonds rank in either of the two highest rating categories established by a nationally recognized bond rating organization, to finance working capital for a participating health institution provided or operated by a city, city and county, county, or district hospital authorized by the laws of this state to provide or operate a health facility and which, pursuant to this part, undertakes financing or refinancing as provided in this part.

(e) The financing or refinancing of projects or working capital for cities, cities and counties, counties, or hospital districts may be provided pursuant to this part by means other than revenue bonds, at the discretion of the authority, including, without limitation, through certificates of participation, or other interests, in bonds, loans, leases, installment sales or other agreements of the cities, city and county, counties or hospital districts. In this connection, the authority may do all things and execute and deliver all documents and instruments as may be necessary or desirable in connection with issuance of the certificates of participation or other means of financing or refinancing.

(f) Any self-insurance pooling program entered into by participating health institutions which are cities, counties, cities and counties, or hospital districts which is funded or financed in whole or in part with proceeds of the sale of revenue bonds or certificates of participation pursuant to this part shall not be subject to regulation of any kind under the Insurance Code or otherwise as insurance, but only any conditions and restrictions as may be imposed by the authority.

(g) If a health facility seeking financing for a project pursuant to this part does not meet the guidelines established by the authority with respect to bond rating, the authority may nonetheless give special consideration, on a case-by-case basis, to financing the project if the health facility demonstrates to the satisfaction of the authority the financial feasibility of the project, and the performance of significant community service. For the purposes of this part, a health facility which performs a significant community service is one that contracts with Medi-Cal or that can demonstrate, with the burden of proof being on the health facility, that it has fulfilled at least two of the following criteria:

(1) On or before January 1, 1991, has established, and agrees to maintain, a 24-hour basic emergency medical service open to the public with a physician and surgeon on duty, or is a children's hospital as defined in Section 14087.21 of the Welfare and Institutions Code, which jointly provides basic or comprehensive

emergency services in conjunction with another licensed hospital. This criterion shall not be utilized in a circumstance where a small and rural hospital, as defined in Section 442.2 of the Health and Safety Code, has not established a 24-hour basic emergency medical service with a physician and surgeon on duty; or will operate a designated trauma center on a continuing basis during the life of the revenue bonds issued by the authority.

(2) Has adopted, and agrees to maintain on a continuing basis during the life of the revenue bonds issued by the authority, a policy, approved and recorded by the facility's board of directors, of treating all patients without regard to ability to pay, including, but not limited to, emergency room walk-in patients.

(3) Has provided and agrees to provide care, on a continuing basis during the life of the revenue bonds issued by the authority, to Medi-Cal and uninsured patients in an amount not less than 5 percent of the facility's adjusted inpatient days as reported on an annual basis to the Office of Statewide Health Planning and Development.

(4) Has budgeted at least 5 percent of its net operating income to meeting the medical needs of uninsured patients and to providing other services, including, but not limited to, community education, primary care outreach in ambulatory settings, and unmet nonmedical needs, such as food, shelter, clothing, or transportation for vulnerable populations in the community, and agrees to continue that policy during the life of the revenue bonds issued by the authority.

On or before January 1, 1992, the authority shall report to the Legislature regarding the implementation of this subdivision. The report shall provide information on the number of applications for financing sought under this subdivision, the number of applications approved and denied under this subdivision, and a brief summary of the reason for any denial of an application submitted under this subdivision.

(h) Enforcement of the conditions under which the authority issues bonds pursuant to this section shall be governed by the enforcement conditions under Section 15459.4

(Added by Stats. 1979, c. 1033, § 1. Amended by Stats. 1980, c. 1351, § 3; Stats. 1983, c. 1228, § 2, eff. Sept. 30, 1983; Stats. 1985, c. 1346, § 3, eff. Oct. 1, 1985; Stats. 1986, c. 842, § 2, eff. Sept. 17, 1986; Stats. 1987, c. 1426, § 4, eff. Sept. 30, 1987; Stats. 1990, c. 628, §1.)

§ 15441. Revenue Bonds

(a) The authority is authorized, from time to time, to issue its negotiable revenue bonds in order to provide funds for achieving any of its purposes under this part.

(b) Except as may otherwise be expressly provided by the authority, each of its revenue bonds shall be payable from any revenues or moneys of the authority available therefor and not otherwise pledged, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys. Notwithstanding that such revenue bonds may be payable from a special fund, they shall be and be deemed to be for all purposes negotiable instruments, subject only to the provisions of such bonds for registration.

(c) The authority's revenue bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance of all revenue bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, not exceeding 40 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as the indenture, trust agreement, or resolution relating to such revenue bonds may provide. The authority's revenue bonds or notes may be sold by the Treasurer at public or private sale, after giving due consideration to the recommendation of the participating health institution, for such price or prices and upon such terms and conditions as the authority shall determine. The Treasurer may sell any such revenue bonds at a price below the par value thereof. However, the discount on any bonds so sold shall not

exceed 6 percent of the par value thereof, except in the case of any bonds payable in whole or in part from moneys held under one or more outstanding resolutions or indentures. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates of temporary bonds which shall be exchanged for such definitive bonds.

(d) Any resolution or resolutions authorizing the issuance of any revenue bonds or any issue of revenue bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to pledging all or any part of the revenues of a project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds.

(e) Neither the members of the authority nor any person executing the revenue bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase its bonds. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

(Added by Stats. 1979, c. 1033, § 1. Amended by Stats. 1983, c. 1242, § 3; Stats. 1987, c. 1426, § 5, eff. Sept. 30, 1987.)

§ 15446. Refunding bonds; proceeds; placement in escrow pending use; investment; application of balance, interest income, or profits

(a) The authority may provide for the issuance of bonds of the authority for the purpose of refunding any bonds or any series or issue of bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption, purchase, or maturity of the bonds.

(b) The proceeds of any bonds issued for the purpose of refunding of outstanding bonds may, in the discretion of the authority, be applied to the purchase, redemption prior to maturity, or retirement at maturity of any outstanding bonds on their earliest redemption date or dates, upon their purchase or maturity, or paid to a third person to assume the authority's obligation to make the payments, and may, pending that application, be placed in escrow to be applied to the purchase, retirement at maturity, or redemption on the date or dates determined by the authority.

(c) Any proceeds placed in escrow may, pending their use, be invested and reinvested in obligations or securities authorized by resolutions of the authority, payable or maturing at the time or times as are appropriate to assure the prompt payment of the principal, interest, and redemption premium, if any, of the outstanding bonds to be refunded at maturity or redemption of the bonds to be refunded either at their earliest redemption date or dates or any subsequent redemption date or dates or for payment of interest on the refunding bonds on or prior to the final date of redemption or payment of the bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by the authority.

(d) All of the refunding bonds are subject to this part in the same manner and to the same extent as other bonds issued pursuant to this part.

(Added by Stats. 1979, c. 1033, § 1. Amended by Stats. 1985, c. 1033, § 5, eff. Sept. 27, 1985; Stats. 1987, c. 1426, § 6, eff. Sept. 30, 1987.)

§ 15453. Bonds; maximum amount outstanding

The total amount of bonds which may be outstanding at any one time under this part shall not exceed

seven hundred sixty-seven million dollars ($767,000,000). Bonds that are refunded pursuant to Section 15446 or for which money or securities in amounts necessary to pay or redeem the principal, interest, and any redemption premium thereon otherwise have been deposited in trust shall not be deemed outstanding for the purposes of this section.

(Added by Stats. 1979, c. 1033, § 1. Amended by Stats. 1980, c. 663, § 1; Stats. 1985, c. 1033, § 6, eff. Sept. 27, 1985.)

§ 15453.5. Bonds; maximum amount of outstanding; increase

Notwithstanding Section 15453, the total amount of bonds which may be outstanding at any one time is hereby increased by an amount not exceeding seven hundred sixty-seven million dollars ($767,000,000). Bonds that are refunded pursuant to Section 15446 or for which moneys or securities in amounts necessary to pay or redeem the principal, interest, and any redemption premium thereon otherwise have been deposited in trust shall not be deemed outstanding for the purposes of this section.

(Added by Stats. 1982, c. 1569, p. 6179, § 1. Amended by Stats. 1983, c. 1242, § 4; Stats. 1985, c. 1033, § 7, eff. Sept. 27, 1985.)

§ 15453.6. Bonds; maximum amount outstanding; increase

Notwithstanding Section 15453 or 15453.5, the total amount of bonds which may be outstanding at any one time is hereby increased by an amount not exceeding eight hundred seventy-five million dollars ($875,000,000). Bonds that are refunded pursuant to Section 15446 or for which moneys or securities in amounts necessary to pay or redeem the principal, interest, and any redemption premium thereon otherwise have been deposited in trust shall not be deemed outstanding for the purposes of this section.

(Added by Stats. 1984, c. 372, § 1, eff. July 10, 1984. Amended by Stats. 1985, c. 1033, § 8, eff. Sept. 27, 1985.)

§ 15453.7. Bonds; maximum amount outstanding; increase

Notwithstanding Section 15453, 15453.5, or 15453.6, the total amount of bonds which may be outstanding at any one time is hereby increased by an amount not exceeding nine hundred sixty-five million dollars ($965,000,000). Bonds that are refunded pursuant to Section 15446 or for which moneys or securities in amounts necessary to pay or redeem the principal, interest, and any redemption premium thereon that have been deposited in trust shall not be deemed outstanding for the purposes of this section.

(Added by Stats. 1985, c. 349, § 6, eff. July 29, 1985. Amended by Stats. 1985, c. 1346, § 4.5, eff. Oct. 1, 1985; Stats. 1986, c. 842, § 4, eff. Sept. 17, 1986.)

§ 15454. Bonds; exclusion from limitations on amount of outstanding bonds; types of projects and liability insurance coverage

Notwithstanding Section 15453, bonds issued pursuant to this part shall not be subject to the limitation of, or be considered or included in computing the amount of outstanding bonds for purposes of, Section 15453, 15453.5, 15453.6, or 15453.7, or any similar provision regarding the maximum amount of outstanding bonds, if issued to finance any of the following:

(a) A project which is, or is for, a county health facility, as defined in subdivision (a) of Section 16715 Welfare and Institutions Code, without regard to whether funding is provided for the project under that section.

(b) A project which is, or is for, an adult day health center.

(c) A project which is, or is for, a multilevel facility.

(d) A project or working capital for a city, city and county, county, or hospital district pursuant to Section 15462 or 15462.5.

(e) Liability insurance coverage for one or more participating health institutions or self-insurance for a participating health institution.

(Added by Stats. 1980, c. 1351, § 3.5. Amended by Stats. 1983, c. 1228, § 3, eff. Sept. 30, 1983; Stats. 1985, c. 1346, § 5, eff. Oct. 1, 1985; Stats. 1986, c. 842, § 6, eff. Sept. 17, 1986; Stats. 1987, c. 1426, § 8, eff. Sept. 30, 1987.)

§ 15455. Construction of part; supplemental and additional nature; exception for issuance of bonds; financing project pursuant to part, not exemption from other applicable law

(a) This part shall be deemed to provide a complete, additional, and alternative method for doing the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws; provided, that the issuance of bonds and refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds, including without limitation the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) Except as provided in subdivision (a), the financing of a project pursuant to this part shall not exempt a project from any requirement of law which otherwise would be applicable to the project.

(Added by Stats. 1979, c. 1033, § 1. Amended by Stats. 1983, c. 1242, § 5.)

§ 15462. Issuance of bonds to or borrowing from authority to secure financing of projects or working capital

Exclusively for the purpose of securing the financing of projects or working capital pursuant to this part through the issuance of revenue bonds, certificates of participation, or other means, and notwithstanding any other provision of law, any city, city and county, county, or local hospital district may issue bonds to the authority or borrow money from the authority at the interest rate or rates, with the maturity date or dates, payment, security, default, remedy, and other terms as specified in the bonds of the city, city and county, county, or local hospital district or a loan, loan purchase, or other agreement between the authority and the city, city and county, county, or hospital district, and the city, city and county, county or hospital district may enter into any agreement for liquidity or credit enhancement or any other agreement or instrument that may be necessary or appropriate in connection with any of the foregoing. This section provides a complete, additional and alternative method for performing the acts authorized by this section, and the borrowing of money from the authority, and any provisions for payment or security or any agreement for liquidity or credit enhancement in connection with the borrowing of money pursuant to this section need not comply with the requirements of any other law applicable to borrowing by a city, county, city and county, or hospital district.

(Added by Stats. 1983, c. 1242, § 6. Amended by Stats. 1985, c. 1346, § 6, eff. Oct. 1, 1985; Stats. 1986, c. 842, § 12, eff. Sept. 17, 1986; Stats. 1987, c. 1426, § 9, eff. Sept. 30, 1987.)

§ 15462.5. Sale or lease from and to authority of health facilities; purpose

Exclusively for the purpose of securing the financing of projects pursuant to this part or through the issuance of revenue bonds, certificates of participation, or other means, and notwithstanding any other law, any city, city and county, county, or hospital district may buy or lease health facilities from the authority, and in connection therewith, sell of lease health facilities to the authority, in each case with the installment payment or rental provisions, term, payment, security, default, remedy, and other terms or provisions as may be specified in the installment sale, lease, or other agreement or agreements, between the authority and the city, city and county, county, or hospital district, and the city, city and county, county, or hospital district may enter into any agreement for liquidity or credit enhancement it may deem necessary or appropriate in connection therewith.

This section provides a complete, additional, and alternative method for performing the acts authorized by this section, and any sale or lease of health facilities to the authority, any purchase or lease of health facilities from the authority, and any provisions for payment and security or any agreement for liquidity or credit enhancement in connection therewith, pursuant to this section, need not comply with the requirements of any other law applicable to sale, purchase, lease, pledge, encumbrance, or credit, as the case may be, by a city, city and county, county, or hospital district.

(Added by Stats. 1985, c. 1119, § 1, eff. Sept. 28, 1985. Amended by Stats. 1986, c. 842, § 13, eff. Sept. 17, 1986; Stats. 1987, c. 1426, § 10, eff. Sept. 30, 1987.)

§ 87104. *[Conflict of interest by public official, including member of advisory committee]*

(a) No public official of a state agency shall, for compensation, act as an agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance before, or by making any oral or written communication to, his or her state agency or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing action on a contract, grant, loan, license, permit, or other entitlement for use.

(b) For purposes of this section, a "public official" is any person defined in Section 82048, and every member of any advisory committee of a state agency, whether the committee is created by statute or otherwise.

(Added by Stats. 1994, c. 414, p. 5, § 3, eff. Sept. 1, 1994, Senate Bill No. 1705.)

HEALTH AND SAFETY CODE

Chapter 3. HOSPITAL SURVEY AND CONSTRUCTION

Article 2. ADMINISTRATION

§ 129460. Advisory health council; duties; transfer of functions of advisory hospital council and health planning council

The California Health Policy and Data Advisory Commission shall advise and consult with the department in carrying out the administration of this chapter and succeeds to and is vested with the functions, authority and responsibility of the Advisory Hospital Council and the Health Planning Council.

Any reference in any code to the Advisory Hospital Council or to the Health Planning Council shall be deemed a reference to the California Health Policy and Data Advisory Commission.

(Added by Stats. 1971, c. 1593, p. 3249, § 99, operative July 1, 1973.)

Part 1.75 SMALL AND RURAL HOSPITALS

Chapter 4.5 SMALL AND RURAL HOSPITALS

Article 1 GENERAL PROVISIONS

§ 124840. "Small and rural hospital" defined

"Small and rural hospital" means an acute care hospital which meets either of the following criteria:

(a) Meets the criteria for designation within peer group six or eight, as defined in the report entitled

Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982.

(b) Meets the criteria for designation within peer group five or seven and has no more than 76 acute care beds and is located in an incorporated place or census designated place of 15,000 or less population according to the 1980 federal census.

(Added by Stats. 1987, c. 1476, § 1.)

Chapter 1 CLINICS

Article 1 DEFINITIONS AND GENERAL PROVISIONS

§ 1200. Clinic; primary care clinic; specialty clinic

As used in this chapter, "clinic" means an organized outpatient health facility which provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and which may also provide diagnostic or therapeutic services to patients in the home as an incident to care provided at the clinic facility. Nothing in this section shall be construed to prohibit the provision of nursing services in a clinic licensed pursuant to this chapter. In no case shall a clinic be deemed to be a health facility subject to the provisions of Chapter 2 (commencing with Section 1250) of this division. A place, establishment, or institution which solely provides advice, counseling, information, or referrals on the maintenance of health or on the means and measures to prevent or avoid sickness, disease, or injury, where such advice, counseling, information, or referrals does not constitute the practice of medicine, surgery, dentistry, optometry, or podiatry, shall not be deemed a clinic for purposes of this chapter.

References in this chapter to "primary care clinics" shall mean and designate all the types of clinics specified in subdivision (a) of Section 1204, including community clinics and free clinics. References in this chapter to specialty clinics shall mean and designate all the types of clinics specified in subdivision (b) of Section 1204, including surgical clinics, chronic dialysis clinics, and rehabilitation clinics.

(Added by Stats. 1978, c. 1147, § 4, eff. Sept. 26, 1978. Amended by Stats. 1980, c. 133, p. 308, § 1; Stats. 1980, c. 1316, p. 4563, § 1; Stats. 1982, c. 859, p. 3207, § 1; Stats. 1985, c. 700, § 1.)

§ 1204. Clinic[s] eligible for licensure, primary care clinics and specialty clinics; classes as defined

Clinics eligible for licensure pursuant to this chapter are primary care clinics and specialty clinics.

(a) Only the following defined classes of primary care clinics shall be eligible for licensure:

(1) A "community clinic" means a clinic operated by a tax-exempt nonprofit corporation that is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended,[2] or a statutory successor thereof, shall operate a community clinic; provided, that the licensee of any community clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a community clinic.

(2) A "free clinic" means a clinic operated by a tax-exempt, nonprofit corporation supported in whole by voluntary donations, bequests, gifts, grants, government funds or contributions, that may be in the form of

[2] 26 U.S.C.A. § 501(c)(3)

money, goods, or services. In a free clinic there shall be no charges directly to the patient for services rendered or for drugs, medicines, appliances, or apparatuses furnished. No corporation other than a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a free clinic; provided, that the licensee of any free clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a free clinic.

(b) The following types of specialty clinics shall be eligible for licensure as specialty clinics pursuant to this chapter:

(1) A "surgical clinic" means a clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain less than 24 hours. A surgical clinic does not include any place or establishment owned or leased and operated as a clinic or office by one or more physicians or dentists in individual or group practice, regardless of the name used publicly to identify the place or establishment, provided, however, that physicians or dentists may, at their option, apply for licensure.

(2) A "chronic dialysis clinic" means a clinic that provides less than 24-hour care for the treatment of patients with end-stage renal disease, including renal dialysis services.

(3) A "rehabilitation clinic" means a clinic that, in addition to providing medical services directly, also provides physical rehabilitation services for patients who remain less that 24 hours. Rehabilitation clinics shall provide at least two of the following rehabilitation services: physical therapy, occupational therapy, social, speech pathology, and audiology services. A rehabilitation clinic does not include the offices of a private physician in individual or group practice.

(4) An "alternative birth center" means a clinic that is not part of a hospital and that provides comprehensive perinatal services and delivery care to pregnant women who remain less than 24 hours at the facility.

(Added by Stats. 1978, c. 1147, § 4, eff. Sept. 26, 1978. Amended by Stats. 1980, c. 133, p. 308, § 2; Stats. 1982, c. 1306, p. 4813, §2, eff. Sept. 23, 1982; Stats. 1985, c. 700, § 3; Stats. 1992, c. 457, § 1.)

§ 1206. Exemptions

This chapter does not apply to the following:

(a) Except with respect to the option provided with regard to surgical clinics in paragraph (1) of subdivision (b) of Section 1204 and, further, with respect to specialty clinics specified in paragraph (2) of subdivision (b) of Section 1204, any place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify the place or establishment.

(b) Any clinic directly conducted, maintained or operated by the United States or by any of its departments, officer, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 which is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. Nothing in this subdivision precludes the state department from adopting regulations which utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.[1]

(c) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 450 or 1601 of Title 25 of the United States Code,[2] and which is located on land recognized as tribal land by the federal government.

(d) Clinics conducted, operated, or maintained as outpatient departments of hospitals.

(e) Any facility licensed as a health facility under Chapter 2 (commencing with Section 1250).

(f) Any freestanding clinical or pathological laboratory licensed under Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(g) A clinic operated by, or affiliated with, any institution of learning which teaches a recognized healing art and is approved by the state board or commission vested with responsibility for regulation of the practice of that healing art.

(h) A clinic which is operated by a primary care community or free clinic and which is operated on separate premises from the licensed clinic and is only open for limited services of no more than 20 hours a week. An intermittent clinic as described in this paragraph shall, however, meet all other requirements of law, including administrative regulations and requirements, pertaining to fire and life safety.

(i) The offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340) of Division 2.

(j) Student health centers operated by public institutions of higher education.

(k) Nonprofit speech and hearing centers, as defined in Section 1201.5. Any nonprofit speech and hearing clinic desiring an exemption under this subdivision shall make application therefor to the director, who shall grant the exception to any facility meeting the criteria of Section 1201.5. Notwithstanding the licensure exemption contained in this subdivision, a nonprofit speech and hearing center shall be deemed to be an organized outpatient clinic for purposes of qualifying for reimbursement as a rehabilitation center under the Medi-Cal Act, Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(l) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, which conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic.

(m) Any clinic, limited to in vivo diagnostic services by magnetic resonance imaging functions or radiological services under the direct and immediate supervision of a physician and surgeon who is licensed to practice in California. This shall not be construed to permit cardiac catheterization or any treatment modality in these clinics.

(n) A clinic operated by an employer or jointly by two or more employers for their employees only, or by a group of employees, or jointly by employees and employers, without profit to the operators thereof or to any other person, for the prevention and treatment of accidental injuries to, and the care of the health of, the employees comprising the group.

(o) A community mental health center as defined in Section 5601.5 of the Welfare and Institutions Code.

(Added by Stats. 1978, c. 1147, § 4, eff. Sept. 26, 1978. Amended by Stats. 1979, c. 478, p. 1634, § 2, eff. Sept. 5, 1979; Stats. 1980, c. 133, p. 310, § 3; Stats. 1980, c. 454, p. 962, § 1.5; Stats. 1980, c. 1316, p. 4565, § 2.5; Stats. 1982, c. 1306, p. 4814, § 3; Stats. 1984, c. 1716, § 1; Stats. 1985, c. 700, § 4; Stats. 1989, c. 977, § 1.)

[1] 42 U.S.C.A. 21 1395 et seq. 1396 et seq.
[2] 25 U.S.C.A. 21 450, 1601.

Chapter 2 HEALTH FACILITIES

Article 1 GENERAL

§ 1250. Health Facility

As used in this chapter, "health facility" means any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises as provided in Section 1250.8. A general acute care hospital that exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital which, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital.

A "general acute care hospital" includes a "rural general acute care hospital". However, a "rural general acute care hospital" shall not be required by the department to provide surgery and anesthesia services. A "rural general acute care hospital" shall meet either of the following conditions:

(1) The hospital meets criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982.

(2) The hospital meets the criteria for designation within peer group five or seven, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982, and has no more than 76 acute care beds and is located in a census dwelling place of 15,000 or less population according to the 1980 federal census.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) "Skilled nursing facility" means a health facility that provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) "Intermediate care facility" means a health facility that provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but

who do not require availability of continuous skilled nursing care.

(e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of four to 15 beds that provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician as not requiring availability of continuous skilled nursing care.

(f) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient care in dentistry or maternity.

(g) "Intermediate care facility/developmentally disabled" means a facility that provides 24-hour personal care, habilitation, developmental, and supportive health services to developmentally disabled clients whose primary need is for developmental, services and who have a recurring but intermittent need for skilled nursing services.

(h) "Intermediate care facility/developmentally disabled-nursing" means a facility with a capacity of four to 15 beds that provides 24-hour personal care, developmental services, and nursing supervision for developmentally disabled persons who have intermittent recurring needs for skilled nursing care but have been certified by a physician and surgeon as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated.

(i)(1) "Congregate living health facility" means a residential home with a capacity, except as provided in paragraph (4), of no more than six beds, that provides inpatient care, including the following basic services: medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social recreational, and at least one type of service specified in paragraph (2). The primary need of congregate living health facility residents shall be for availability of skilled nursing care on a recurring, intermittent, extended, or continuous basis. This care is generally less intense than that provided in general acute care hospitals but more intense than that provided in skilled nursing facilities.

(2) Congregate living health facilities shall provide one of the following services:

(A) Services for persons who are mentally alert, physically disabled persons, who may be ventilator dependent.

(B) Services for persons who have a diagnosis of terminal illness, a diagnosis of a life-threatening illness, or both. Terminal illness means the individual has a life expectancy of six months or less as stated in writing by his or her attending physician and surgeon. A "life-threatening illness" means the individual has an illness that can lead to a possibility of a termination of life within five years or less as stated in writing by his or her attending physician and surgeon.

(C) Services for persons who are catastrophically and severely disabled. A catastrophically and severely disabled person means a person whose origin of disability was acquired through trauma or nondegenerative neurologic illness, for whom it has been determined that active rehabilitation would be beneficial and to whom these services are being provided. Services offered by a congregate living health facility to a catastrophically disabled person shall include, but not be limited to, speech, physical, and occupational therapy.

(3) A congregate living health facility license shall specify which of the types of persons described in paragraph (2) to whom a facility is licensed to provide services.

(4)(A) A facility operated by a city and county for the purposes of delivering services under this section may have a capacity of 59 beds.

(B) A congregate living health facility not operated by a city and county servicing persons who are terminally ill, persons who have been diagnosed with a life-threatening illness, or both, that is located in a county with a population of 500,000 or more persons may have not more than 25 beds for the purpose of serving terminally ill persons.

(C) A congregate living health facility not operated by a city and county serving persons who are catastrophically and severely disabled, as defined in subparagraph (C) of paragraph (2) that is located in a county of 500,000 or more persons may have not more than 12 beds for the purpose of serving catastrophically and severely disabled persons.

(5) A congregate living health facility shall have a noninstitutional, homelike environment.

(j)(1) "Correctional treatment center" means a health facility operated by the Department of Corrections, the Department of the Youth Authority, or a county, city, or city and county law enforcement agency that, as determined by the state department, provides inpatient health services to that portion of the inmate population who do not require a general acute care level of basic services. This definition shall not apply to those areas of a law enforcement facility that houses inmates or wards that may be receiving outpatient services and are housed separately for reasons of improved access to health care, security and protection. The health services provided by a correctional treatment center shall include, but are not limited to, all of the following basic services: physician and surgeon, psychiatrist, psychologist, nursing, pharmacy, and dietary. A correctional treatment center may provide the following services: laboratory, radiology, perinatal, and any other services approved by the state department.

(2) Outpatient surgical care with anesthesia may be provided, if the correctional treatment center meets the same requirements as a surgical clinic licensed pursuant to Section 1204, with the exception of the requirement that patients remain less than 24 hours.

(3) Correctional treatment centers shall maintain written service agreements with general acute care hospitals to provide for those inmate physical health needs that cannot be met by the correctional treatment center.

(4) Physician and surgeon services shall be readily available in a correctional treatment center on a 24-hour basis.

(5) It is not the intent of the Legislature to have a correctional treatment center supplant the general acute care hospitals at the California Medical Facility, the California Men's Colony, and the California Institution for Men. This subdivision shall not be construed to prohibit the California Department of Corrections from obtaining a correctional treatment center license at these sites.

(6) This subdivision shall remain operative only until January 1, 1997.

(k) "Nursing facility" means a facility that is certified to participate as a provider of care in the federal medicaid program under Title XIX of the federal Social Security Act and is licensed as either of the following:

(1) Skilled nursing facility.

(2) Intermediate care facility.

(l) Regulations defining a correctional treatment center described in subdivision (j) that is operated by a county, city, or city and county, the Department of Corrections, or the Department of the Youth Authority, shall not become effective prior to, or if effective, shall be inoperative until January 1, 1996, and until that time these correctional facilities are exempt from any licensing requirements.

(Added by Stats. 1973, c. 1202, p. 2564, § 2. Amended by Stats. 1974, c. 1444, p. 3151, § 1; Stats. 1976, c. 854, p. 1950, § 34, eff. Sept. 9, 1976; Stats. 1978, c. 1221, § 1, eff. Sept. 27, 1978; Stats. 1978, c. 1226, § 1.5; Stats. 1980, c. 676, p. 1937, § 152; Stats. 1980, c. 569, p. 1558, § 1; Stats. 1981, c. 714, p. 2675, § 213; Stats. 1981, c. 743, p. 2908, § 3; Stats. 1983, c. 695, § 1, eff. Sept. 11, 1983; Stats. 1983, c. 1003, § 1; Stats. 1984, c. 497, § 2, effective July 17, 1984; Stats. 1985, c. 1496, § 4; Stats. 1986, c. 1111, § 1; Stats. 1986, c. 1320, § 1; Stats. 1986, c. 1459, § 1.5; Stats. 1987, c. 1282, § 2; Stats. 1988, c. 1478, § 3, eff. Sept. 28, 1988; Stats. 1988, c. 1608, § 1.3; Stats. 1989, c. 1393, § 1, eff. Oct. 2, 1989; Stats. 1990, c. 1227 (A.B. 3413), § 1, eff. Sept. 24, 1990; Stats. 1990, c. 1329 (S.B. 1524), § 3.5, eff. Sept. 26, 1990; Stats. 1992, c. 697 (S.B. 1559), § 11; Stats. 1992, c. 1163 (S.B. 1570), § 1; Stats. 1992, c. 1164 (S.B. 1003), § 1; Stats. 1992, c. 1369 (A.B. 3027), § 5, eff. Oct. 27, 1992, operative Jan. 1, 1993; Stats. 1993, c. 589 (A.B. 2211), § 84; Stats. 1993, c. 70 (S.B. 86), § 7, eff. June 30, 1993; Stats. 1993, c. 930 (S.B. 560), § 1; Stats. 1993, c. 931 (A.B. 972), § 1; Stats. 1993, c. 932 (S.B. 910), § 1, eff. Oct. 8, 1993; Stats. 1993, c. 932 (S.B. 910), § 1.7, eff. Oct. 8, 1993, operative Jan. 1, 1994.)

§ 1250.8. Single consolidated general acute care hospital license; criteria; location of supplemental service and category of beds; requirements; transfer approval and regulations; facility; Medi-Cal program; report; application of amendments; authorized actions; facilities located more than 15 miles from health facility

(a) Notwithstanding subdivision (a) of Section 437.10, the state department, upon application of a general acute care hospital which meets all the criteria of subdivision (b), and other applicable requirements of licensure, shall issue a single consolidated license to a general acute care hospital which includes more than one physical plant maintained and operated on separate premises or which has multiple licenses for a single health facility on the same premises. A single consolidated license shall not be issued where the separate freestanding physical plant is a skilled nursing facility or an intermediate care facility, whether or not the location of the skilled nursing facility or intermediate care facility is contiguous to the general acute care hospital unless the hospital is exempt from the requirements of subdivision (b) of Section 1254, or the facility is part of the physical structure licensed to provide acute care.

(b) The issuance of a single consolidated license shall be based on the following criteria:

(1) There is a single governing body for all of the facilities maintained and operated by the licensee.

(2) There is a single administration for all of the facilities maintained and operated by the licensee.

(3) There is a single medical staff for all of the facilities maintained and operated by the licensee, with a single set of bylaws, rules, and regulations, which prescribe a single committee structure.

(4) Except as provided otherwise in this paragraph the physical plants maintained and operated by the licensee which are to be covered by the single consolidated license are located not more that 15 miles apart. The director may issue a single consolidated license to a general acute care hospital which maintains and operates two or more physical plants which are located beyond 15 miles if all of the following exist:

(A) Either (i) one or more physical plants are located in a rural area, as defined by regulations of the director; or (ii) the physical plants are located beyond 15 miles from the general acute care hospital which obtains the single consolidated license and provide outpatient services as defined by the department, and do not provide inpatient services.

(B) The director finds, after consultation with the Director of the Office of Statewide Health Planning and Development, that the issuance of the single consolidated license for the general acute care hospital would not significantly impair the operation of Part 1.5 (commencing with Section 437) of Division 1.

(C) The director finds that the licensee can comply with the requirements of licensure and maintain the provision of quality care, and adequate administrative and professional supervision.

(D) The physical plants satisfy the criteria of subdivision (a) and paragraphs (1), (2), and (3).

(E) The physical plants of the licensee operate in full compliance with subdivision (f) of Section 1275.

(c) In issuing the single consolidated license, the state department shall specify the location of each supplemental service and the location of the number and category of beds provided by the licensee. The single consolidated license shall be renewed annually.

(d) To the extent required by Part 1.5 (commencing with Section 437) of Division 1, a general acute care hospital which has been issued a single consolidated license:

(1) Shall not transfer from one facility to another a special service described in Section 1255 without first obtaining a certificate of need.

(2) Shall not transfer, in whole or in part, from one facility to another, a supplemental service, as defined in regulations of the director pursuant to this chapter, without first obtaining a certificate of need, unless the licensee, 30 days prior to the relocation, notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate the supplemental service, and includes with this notice a cost estimate, certified by a person qualified by experience or training to render the estimates, which estimates that the cost of the transfer will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.

(3) Shall not transfer beds from one facility to another facility, without first obtaining a certificate of need unless, 30 days prior to the relocation, the licensee notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate health facility beds, and includes with this notice both of the following:

(A) A cost estimate, certified by a person qualified by experience or training to render the estimates, which estimates that the cost of the relocation will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.

(B) The identification of the number, classification, and location of the health facility beds in the transferor facility and the proposed number, classification, and location of the health facility beds in the transferee facility.

Except as otherwise permitted in Part 1.5 (commencing with Section 437) of Division 1, or as authorized in an approved certificate of need pursuant to that part, health facility beds transferred pursuant to

this section shall be used in the transferee facility in the same bed classification as defined in Section 1250.1, as the beds were classified in the transferor facility.

Health facility beds transferred pursuant to this section shall not be transferred back to the transfer or facility for two years from the date of the transfer, regardless of cost, without first obtaining a certificate of need pursuant to Part 1.5 (commencing with Section 437) of Division 1.

(e) All transfers pursuant to subdivision (d) shall satisfy all applicable requirements of licensure and shall be subject to the written approval, if required, of the state department. The state department may adopt regulations which are necessary to implement the provisions of this section. These regulations may include a requirement that each facility of a health facility subject to a single consolidated license have an onsite full-time or part-time administrator.

(f) As used in this section, "facility" means any physical plant operated or maintained by a health facility subject to a single, consolidated license issued pursuant to this section.

(g) For purposes of selective provider contracts negotiated under the Medi-Cal program, the treatment of a health facility with a single consolidated license issued pursuant to this section shall be subject to negotiation between the health facility and the California Medical Assistance Commission. A general acute care hospital which is issued a single consolidated license pursuant to this section may, at its option, receive from the state department a single Medi-Cal program provider number or separate Medi-Cal program provider numbers for one or more of the facilities subject to the single consolidated license. Irrespective of whether the general acute care hospital is issued one or more Medi-Cal provider numbers, the state department may require the hospital to file separate cost reports for each facility pursuant to Section 14170 of the Welfare and Institutions Code.

(h) For purposes of the Annual Report of Hospitals required by regulations adopted by the state department pursuant to this part, the state department and the Office of Statewide Health Planning and Development may require reporting of bed and service utilization data separately by each facility of a general acute care hospital issued a single consolidated license pursuant to this section.

(i) The amendments made to this section during the 1985-86 Regular Session of the California Legislature pertaining to the issuance of a single consolidated license to a general acute care hospital in the case where the separate physical plant is a skilled nursing facility or intermediate care facility shall not apply to the following facilities:

(1) Any facility which obtained a certificate of need after August 1, 1984, and prior to February 14, 1985, as described in this subdivision. The certificate of need shall be for the construction of a skilled nursing facility or intermediate care facility which is the same facility for which the hospital applies for a single consolidated license, pursuant to subdivision (a).

(2) Any facility for which a single consolidated license has been issued pursuant to subdivision (a), as described in this subdivision, prior to the effective date of the amendments made to this section during the 1985-86 Regular Session of the California Legislature.

Any facility which has been issued a single consolidated license pursuant to subdivision (a), as described in this subdivision, shall be granted renewal licenses based upon the same criteria used for the initial consolidated license.

(j) If the state department issues a single consolidated license pursuant to this section, the state department may take any action authorized by this chapter, including, but not limited to, any action specified in Article 5 (commencing with Section 1294), with respect to any facility, or any service provided in any facility,

which is included in the consolidated license.

(k) The eligibility for participation in the Medi-Cal program (Chapter 7 (commencing with Section 14000), Part 3, Division 9, Welfare and Institutions Code) of any facility that is included in a consolidated license issued pursuant to this section, provides outpatient services, and is located more than 15 miles from the health facility issued the consolidated license shall be subject to a determination of eligibility by the state department. This subdivision shall not apply to any facility that is located in a rural area and is included in a consolidated license issued pursuant to subparagraphs (A), (B), and (C) of paragraph (4) of subdivision (b). Regardless of whether a facility has received or not received a determination of eligibility pursuant to this subdivision, this subdivision shall not affect the ability of a licensed professional, providing services covered by the Medi-Cal program to a person eligible for Medi-Cal in a facility subject to a determination of eligibility pursuant to this subdivision, to bill the Medi-Cal program for those services provided in accordance with applicable regulations.

(Added by Stats. 1983, c. 1003, § 2. Amended by Stats. 1984, c. 1516, § 2, eff. Sept. 28, 1984, operative Jan. 1, 1985; Stats. 1986, c. 1318, § 1; Stats. 1991, c. 728 (A.B. 1885), § 1.)

§ 1251.5. Special permit

A "special permit" is a permit issued in addition to a license, authorizing a health facility to offer one or more of the special services specified in Section 1255 when the state department has determined that the health facility has met the standards for quality of care established by state department pursuant to Article 3 (commencing with Section 1275).

(Added by Stats. 1973, c. 1202, p. 2565, § 2.)

Chapter 3 CALIFORNIA COMMUNITY CARE FACILITIES ACT

Article 1 GENERAL PROVISIONS

§ 1500. Short title

This chapter shall be known and may be cited as the California Community Care Facilities Act.

(Added by Stats. 1973, c. 1203, p. 2581, § 4.)

§1502. Definitions

As used in this chapter:

(a) "Community care facility" means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day care facility" means any facility that provides nonmedical care to persons 18 years of age

or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(3) "Therapeutic day services facility" means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) "Foster family agency" means any organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility, in the licensee's family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

(7) "Social rehabilitation facility" means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

(8) "Community treatment facility" means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis.

(10) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

(Added by Stats. 1973, c. 1203, p. 2582, § 4. Amended by Stats. 1976, c. 1350, p. 6159, § 1; Stats. 1977, c. 1252, § 257, operative July 1, 1978; Stats. 1977, c. 1199, § 5; Stats. 1978, c. 288, § 1; Stats. 1978, c. 429, § 134.55, eff. July 17, 1978, operative July 1, 1978; Stats. 1978, c. 891, § 1, eff. Sept. 19, 1978; Stats. 1982, c. 1124, p. 4051, § 1; Stats. 1983, c. 1015, § 2; Stats. 1984, c. 1309, § 1; Stats. 1984, c. 1615, § 1.5; Stats. 1985, c. 1127, § 1; Stats. 1985, c. 1473, § 2; Stats. 1986, c 248, § 116; Stats. 1986, c. 1120, § 2, eff. Sept. 24, 1986; Stats. 1987, c. 1022, § 2.5; Stats. 1988, c. 160, § 89; Stats. 1988, c. 557, § 2; Stats. 1988, c. 1142, § 3, eff. Sept. 22, 1988, Stats. 1988, c. 1142, § 3.5, eff. Sept. 22, 1988, operative Jan. 1, 1989; Stats. 1989, c. 1360, § 82; Stats, 1990, c. 1139 (S.B. 2039), § 1. eff. Sept. 21, 1990; Stats. 1991, c. 1137 (A.B. 760), § 1; Stats. 1991, c. 1200 (S.B. 90), § 1. eff. Oct. 14, 1991; Stats 1991, c. 1200 (S.B. 90), § 1.5, eff. Oct. 14, 1991, operative Jan. 1, 1992; Stats. 1992, c. 1374 (A.B. 14), § 1. eff. Oct. 28, 1992; Stats. 1993, c. 248 (S.B. 465), § 1, eff. Aug. 2, 1993; Stats. 1993, c. 1245 (S.B. 282), § 2, eff. Oct. 11, 1993.)

Chapter 3.3 CALIFORNIA ADULT DAY HEALTH CARE ACT

Article 1 GENERAL DEFINITIONS

§ 1570.7. Definitions

As used in this chapter:

(a) "Adult day health care" means an organized day program of therapeutic, social, and health activities and services provided pursuant to this chapter to elderly persons with functional impairments, either physical or mental, for the purpose of restoring or maintaining optimal capacity for self-care. Provided on an short-term basis, adult day health care serves as a transition from a health facility or home health program to personal independence. Provided on a long-term basis, it serves as an option to institutionalization in long-term health care facilities, when 24-hour skilled nursing care is not medically necessary or viewed as desirable by the recipient or his or her family.

(b) "Adult day health center" or "adult day health care center" means a licensed and certified facility which provides adult day health care.

(c) "Elderly" or "older person" means a person 55 years of age or older, but also includes other persons who are chronically ill or impaired and who would benefit from adult day health care.

(d) "Individualized plan of care" means a plan designed to provide recipients of adult health care with appropriate treatment in accordance with the assessed needs of each individual.

(e) "License" means a basic permit to operate an adult day health center. With respect to a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) "license" means a special permit, as defined by Section 1251.5, empowering the health facility to provide adult day health care services.

(f) "Maintenance program" means procedures and exercises that are provided to a participant, pursuant to Section 1580, in order to generally maintain existing function. The procedures and exercises are planned by a licensed or certified therapist and are provided by a person who has been trained by a licensed or certified therapist and who is directly supervised by a nurse or by a licensed or certified therapist.

(g) "Planning council" or "council" means an adult day health care planning council established pursuant to Section 1572.5.

(h) "Restorative therapy" means physical, occupational, and speech therapy, and psychiatric and psychological services, that are planned and provided by a licensed or certified therapist. The therapy and services may also be provided by an assistant or aide under the appropriate supervision of a licensed therapist, as determined by the licensed therapist. The therapy and services are provided to restore function, when there is an expectation that the condition will improve significantly in a reasonable period of time, as determined by the multidisciplinary assessment team.

(i) "State review committee" or "committee" means the Long-Term Care Committee established pursuant to Section 1572.

(j) "Department" or "state department" means the Department of Aging or the State Department of Health Services as specified in the interagency agreement between the two departments.

(Added by Stats. 1977, c. 1066, § 1, Amended by Stats. 1990, c. 1351 (S.B.2429), § 2, eff. Sept. 26, 1990; Stats. 1991, c. 985 (S.B. 681), § 2.)

Article 2 ADMINISTRATION

§ 1572. Transfer of functions and duties; interagency agreement; long-term care committee

To the extent provided for under Section 9316 of the Welfare and Institutions Code, the functions and duties of the state department provided for under this chapter shall be performed by the Department of Aging commencing on the date the functions are transferred from the Department of Health Services to the Department of Aging. These functions shall be transferred when the Department of Aging develops an implementation plan clearly defining the authority, functions, and responsibility of the Department of Aging, and signs an interagency agreement with the state department to specify how the departments shall work together in areas of mutual concern.

The Health and Welfare Agency shall develop a plan by July 1, 1988, for streamlining the certification and licensing process for adult day health care.

The interagency agreement shall specify that the Department of Aging is designated by the state department as the agency responsible for community long-term care programs. At a minimum, the interagency agreement shall clarify each department's responsibilities on issues involving licensure and certification of adult day health care providers, payment of adult day health care claims, prior authorization of services, promulgation of regulations, and development of adult day health care Medi-Cal rates. The interagency agreement shall also specify that as of January 1, 1988, the State Department of Health Services shall delegate to the Department of Aging the responsibility of performing the financial and cost report audits and the resolution of audit appeals which are necessary to ensure program integrity. As provided for in Section 19994.10 (renumbered as Section 19050.9) of the Government Code, the personnel resources and funding, equivalent to one personnel year used to perform the audit responsibilities shall be transferred to the Department of Aging. This agreement shall also include provisions whereby the state department and the Department of Aging shall collaborate in the development and implementation of health programs and services for older persons and functionally impaired adults.

To the extent necessary for implementation of Section 9316 of the Welfare and Institutions Code, as used in this chapter, "director" shall refer to the Director of the Department of Aging and "state department" shall refer to the Department of Aging. A Long-Term Care Committee is hereby established in the Department of Aging. The committee shall include, but not be limited to, a member of the California Commission on Aging, who shall be a member of the Long-Term Care Committee of the commission, a representative of the Association for Adult Day Care Services, a representative of the California Association of Area Agencies on Aging, a representative of the California Conference of Local Health Officers, a member of a local adult day health care planning council, nonprofit representatives and professionals with expertise in Alzheimer's disease or a disease of a related disorder, a member of the California Coalition of Independent Living centers, and representatives from other appropriate state departments, including the State Department of Health Services, the State Department of Social Services, the State Department of Mental Health, the State Department of Developmental Services and the State Department of Rehabilitation, as deemed appropriate by the Director of the Department of Aging. At least one member shall be a person over 60 years of age. The committee shall function as an advisory body to the Department of Aging and advise the Director of the Department of Aging regarding development of community-based long-term care programs.

This function shall also include advice to the Director of the Department of Aging for recommendations to the State department of Health Services on licensure, Medi-Cal reimbursement, and utilization control issues.

The committee shall be responsible for the reviewing of new programs under the jurisdiction of the department.

The committee shall assist the Director of the Department of Aging in the development of procedures and guidelines for new contracts or grants, as well as review and make recommendations on applicants. The committee shall take into consideration the desirability of coordinating and utilizing existing resources, avoidance of duplication of services and inefficient operations, and locational preferences with respect to accessibility and availability to the economically disadvantaged older person.

Additionally, the functions of the committee shall include all of the following:

(a) The committee shall review and make recommendations on guidelines for adoption by the Director of the Department of Aging setting forth principles for evaluation of community need for adult day health care, which shall take into consideration the desirability of coordinating and utilizing existing resources, avoidance of duplication of services and inefficient operations, and locational preferences with respect to accessibility and

availability to the economically disadvantaged older person.

(b) The committee shall review county plans submitted pursuant to Section 1572.9. Such county plans shall be approved if consistent with the guidelines adopted by the director pursuant to subdivision (a).

(c) The committee shall review and make recommendations to the Director of the Department of Aging concerning individual proposals for startup funds and for original licensure of proposed adult day health care centers. The Director of the Department of Aging shall make recommendations regarding licensure to the Licensing and Certification Division in the State Department of Health Services. This review may include onsite inspections by the committee, or a special subcommittee thereof, for the purpose of evaluating a proposed provider or its facility. The basis of this review shall be the approved county plan and an evaluation of the ability of the applicant to provide adult day health care in accordance with the requirements of this chapter and regulations adopted hereunder. A public hearing on each individual proposal for an adult day health care center may be held by the department in conjunction with the local adult day health care council in the county to be served. A hearing shall be held if requested by a local adult day health care council. In order to provide the greatest public input, the hearing should preferably be held in the service area to be served.

(Added by Stats. 1977, c. 1066, § 1. Amended by Stats. 1978, c. 429, § 135, eff. July 17, 1978, operative July 1, 1978; Stats. 1982, c. 1490, p. 5767, § 2; Stats. 1984,c. 1600,§ 4, eff. Sept. 30, 1984, operative July 1, 1984; Stats. 1985, c. 1305, § 1; Stats. 1987, c. 1015, § 1.)

§ 1572.5. Planning Council

(a) The board of supervisors of any county may establish for that county an adult day health care planning council as provided in this section. Alternatively, two or more adjacent counties may agree to form a single adult day health care planning council with jurisdiction in all participating counties. Each council shall be comprised of 17 members appointed by the board of supervisors, or jointly appointed by the boards of supervisors of counties having a single council, as follows:

(1) Nine members of the council shall be persons over 55 years of age who have a demonstrated interest in the special health and social needs of the elderly and who are representative of organizations dedicated primarily to the needs of older persons, including those of low-income and racial and ethnic minorities.

(2) A representative of the area agency on aging designated pursuant to Public Law 94-135[1] or, if none, a county agency responsible for services to senior citizens.

(3) A representative of a county agency responsible for administering health programs for senior citizens.

(4) A representative of the county medical society.

(5) A representative of a publicly funded senior citizen transportation program.

(6) A representative of a health facility or organization of health facilities providing acute or long-term care to the elderly.

(7) A member-at-large who has demonstrated an interest in alternatives to institutional long-term care.

(8) A functionally impaired adult member with a demonstrated interest in community-based, long-term care needs of the functionally impaired who is 18 or over, and under 55 years of age.

(9) A representative of the county department of public social services, or the equivalent agency.

(b) The board of supervisors, with the approval of the Department of Aging, may designate the area agency on aging advisory council as the adult day health care planning council in counties in which all of the following exist:

(1) An adult day health care planning council has not been established.

(2) The board of supervisors governs the area agency on aging.

(3) The area agency on aging has demonstrated interest and commitment in alternative to institutional long-term care.

(4) The area agency on aging advisory council includes representatives of county or community-based agencies which are responsible for administering or providing long-term care services of which have demonstrated an interest in developing long-term care alternatives.

The board of supervisors shall seek the advice and assistance of other health and transportation representatives identified in this section.

(c) If persons meeting the qualifications specified by any paragraph of subdivision (a) are unavailable or unwilling to serve on the council, the appointing power may apply to the director for an exemption. In this case, the director shall grant an exemption and shall specify such alternative qualifications as will best serve the purposes of this chapter with due regard for local conditions.

(Added by Stats. 1977, c. 1066, § 1. Amended by Stats. 1982, c. 1490, p. 5768, § 3; Stats. 1985, c. 1305, § 2; Stats. 1987, c. 482, §1.)

[1] See 42 USCA § 3025 for designation of area agencies.

United States Code Annotated

Area agency, grants for state and community programs for aging, see 42 U.S.C.A. § 30258 et seq.

Chapter 3.4 CALIFORNIA CHILD DAY CARE ACT

Article 1 GENERAL PROVISIONS AND DEFINITIONS

§ 1596.750. "Child day care facility"

"Child day care facility" means a facility which provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Child day care facility includes day care centers and family day care homes.

(Added by Stats. 1984, c. 1615, § 9.)

Chapter 7.5 LICENSING

Article 1 GENERAL PROVISIONS

§ 11834.02. Definitions

(a) As used in this chapter, "alcoholism or drug abuse recovery or treatment facility" or "facility" means any premises, place, or building that provides 24-hour residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services.

(b) As used in this chapter, "adults" may include, but is not limited to, all of the following:

(1) Mothers over 18 years of age and their children.

(2) Emancipated minors, which may include, but is not limited to, mothers under 18 years of age and their children.

(c) As used in this chapter, "emancipated minors" means persons under 18 years of age who have acquired emancipation status pursuant to Section 7002 of the Family Code.

(d) Notwithstanding subdivision (a), an alcoholism or drug abuse recovery or treatment facility may serve adolescents upon the issuance of a waiter granted by the department pursuant to regulations adopted under subdivision (c) of Section 11834.50.

(Formerly § 11834.11, added by Stats. 1984, c. 1667, § 2. Amended by Stats. 1988, c. 646, § 1; Stats. 1989, c. 919, § 9; Stats. 1992, c. 620 (A.B. 2460), § 3; Stats. 1993, c. 219 (A.B. 1500), § 216.1. Renumbered § 11834.02 and amended by Stats. 1993, c. 741, § 5.)

Division 23 HOSPITAL DISTRICTS

Chapter 2 BOARD OF DIRECTORS

Article 2 POWERS

§ 32127.2. Insurance program; borrowing money or credit or issuing bonds; security interests

Exclusively for the purpose of securing state insurance of financing for the construction of new health facilities, the expansion, modernization, renovation, remodeling and alteration of existing health facilities, and the initial equipping of any such health facilities under Chapter 4 (commencing with Section 129000) of Part 1 of Division 1, and notwithstanding any provision of this division or any other provision of holding of law, the board of directors of any district may (a) borrow money or credit, or issue bonds, as well as by the financing methods specified in this division, and (b) execute in favor of the state first mortgages, first deeds of trust, and such other necessary security interests as the Office of Statewide Health Planning and Development may reasonably

require in respect to a health facility project property as security for such insurance. No payments of principal, interest, insurance premium and inspection fees, and all other costs of state-insured loans obtained under the authorization of this section shall be made from funds derived from the district's power to tax. It is hereby declared that the authorizations for the executing of such mortgages, deeds of trust and other necessary security agreements by the board and for the enforcement of the state's rights thereunder is in the public interest in order to preserve and promote the health, welfare, and safety of the people of this state by providing, without cost to the state, a state insurance program for health facility construction loans in order to stimulate the flow of private capital into health facilities construction to enable the rational meeting of the critical need for new, expanded and modernized public health facilities.

(Added by Stats. 1969, c. 970, p. 970, p. 1930, § 2. Amended by Stats. 1971, c. 1593, p. 3306, § 295, operative July 1, 1973.) Stats. 1977, c. 1252, p. 4431, § 344, operative July 1, 1978, Stats. 1978, c. 429, p. 1412, § 154, eff. July 17, 1978, operative July 1, 1978; Stats. 1982, c. 1513, p. 5869, § 9.)

PUBLIC CONTRACT CODE

§ 10373. Bidding; three competitive bids required; exceptions

(a) Except as provided by subdivision (b), state agencies shall secure at least three competitive bids or proposals for each consulting services contract.

(b) Three competitive bids or proposals are not required in any of the following cases:

(1) In cases of emergency where a contract is necessary for the immediate preservation of the public health, welfare, or safety, or protection of state property.

(2) When the agency awarding the contract has advertised the contract in the California State Contracts Register and has solicited all potential contractors known to the agency but has received less than three bids or proposals.

(3) The contract is with another state agency or with a local governmental entity.

(4) The contract meets the conditions prescribed by the department pursuant to subdivision (a) of Section 10380.

(c) Any agency which has received less than three bids or proposals on a contract shall document, in a manner prescribed by the department, the names and addresses of the firms or individuals it solicited for bids or proposals.

(Added by Stats. 1983, c. 1231, § 4, eff. Sept. 30, 1983.)

PUBLIC RESOURCES CODE

DIVISION 13

§ 21000. Legislative intent

The Legislature finds and declares as follows:

(a) The maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern.

(b) It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man.

(c) There is a need to understand the relationship between the maintenance of high-quality ecological systems and the general welfare of the people of the state, including their enjoyment of the natural resources of the state.

(d) The capacity of the environment is limited, and it is the intent of the Legislature that the government of the state take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached.

(e) Every citizen has a responsibility to contribute to the preservation and enhancement of the environment.

(f) The interrelationship of policies and practices in the management of natural resources and waste disposal requires systematic and concerted efforts by public and private interests to enhance environmental quality and to control environmental pollution.

(g) It is the intent of the Legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.

(Added by Stats. 1970, c. 1433, p. 2780, § 1. Amended by Stats. 1979, c. 947, p. 3270, § 4.)

WELFARE & INSTITUTIONS CODE

§ 5401. Services for counties

The State Department of Mental Health may provide a county or combination of counties acting jointly, the evaluation, referral, intensive treatment, prepetition screening, crisis intervention, and other services described in this part.

No person shall receive treatment in a state hospital pursuant to this section unless the county, or combination of counties has utilized, insofar as practicable, the existing facilities in the county which are subject to reimbursement under the Short-Doyle Act.

A county or combination of counties receiving services from the State Department of Mental Health pursuant to this section shall pay for such services in an amount not to exceed the actual cost of services. Funds received by the State Department of Mental Health under this section shall constitute a reimbursement to the appropriation from which such cost is expendable and may be used for the purposes of the appropriation.

Any services provided pursuant to this section shall be included in the county Short-Doyle plan for the county or counties.

(Added by Stats. 1967, c 1667, p. 4074, § 36, operative July 1, 1969. Amended by Stats.1968, c.1374, p.2664, §59, operative July 1, 1969; Stats.1969, c.722,p.1434,§31, eff. Aug. 8, 1969, operative July 1, 1969; Stats.1970, c. 1627, p. 3450, §26.1; Stats.1971, c. 1593, p. 3344, § 382, operative July 1, 1973; Stats.1977, c. 1252, p. 4580, § 580, operative July 1, 1978.)

§ 5705.2. Negotiated net amounts of rates; use as cost of services; conditions; operative date of section

Negotiated net amounts or rates may be used as the cost of services only in accordance with the following subdivisions:

(a) Negotiated net amounts may be used as the cost of services in a contract which provides for the delivery of all or part of the total county Short-Doyle annual plan for each fiscal year. The negotiated net amount shall be approved by the State Department of Mental Health prior to commencing services for reimbursement. Providers under this subdivision shall report to the State Department of Mental Health and the local mental health program cost accounting and any other information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health emphasizing success in program outcome versus providers' expenditures. Contract entered into pursuant to this paragraph shall be financed within an approved Short-Doyle plan. For negotiated net amounts contracts that provide for the delivery of 75 percent or more of the total county Short-Doyle annual plan, the contracting organization shall bear the financial responsibility for the local match requirement, which shall not include state or federal funds directly allocated to the contracting organizations, for the portion of the county program covered by the contract.

(b) Negotiated rates may be used as the cost of services in contracts by providers with counties. The negotiated rate shall be approved by the State Department of Mental Health prior to commencing services for reimbursement. Providers under this subdivision shall report to the State Department of Mental Health and the local mental health program cost accounting and any other information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

This section shall become operative July 1, 1987.
(Added by Stats. 1983, c. 1207, § 4, eff. Sept. 30, 1983.)

§ 5715. Expenditures subject to payment

Expenditures subject to payment shall include expenditures for the items specified in § 5401; negotiated amounts approved by the department pursuant to § 5705.2; salaries of personnel; approved facilities and services provided through contract; operation, maintenance, and service costs including insurance costs or departmental charges for participation in a county self-insurance program if the charges are not in excess of comparable available commercial insurance premiums and on the condition that any surplus reserves by used to

reduce future year contributions; depreciation of county facilities as established in the state's uniform accounting manual, disregarding depreciation on the facility to the extent it was financed by state funds under this part; lease of facilities where there is no intention to, nor option to, purchase; expenses incurred under this act by members of the Conference of Local Mental Health Directors for attendance at regular meetings of these conferences; expenses incurred by either the chairperson or elected representative of the local mental health advisory boards for attendance at regular meetings of the organization of Mental Health Advisory Boards; expenditures included in approved countywide cost allocation plans submitted in accordance with the Controller's guidelines, including, but not limited to, adjustments of prior year estimated general county overhead to actual costs, but excluding allowable costs otherwise compensated by Short-Doyle Act funding; and other expenditures as may be approved by the Director of Mental Health. Except for expenditures made pursuant to Article 6 (commencing with Section 129255) of Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, it shall not include expenditures for initial capital improvements; the purchase or construction of buildings except for equipment items and remodeling expense as may be provided for in regulations of the State Department of Mental Health; compensation to members of a local mental health advisory board., except actual and necessary expenses incurred in the performance of official duties which may include travel, lodging, and meals while on official business; or expenditures for a purpose for which state reimbursement is claimed under any other provision of law.

(Added by Stats. 1968, c. 989, p. 1922, § 2, operative July 1, 1969. Amended by Stats. 1969, c. 722, p. 1440, § 42, effective August 8, 1969, operative July 1, 1969; Stats. 1970, c. 1627, p. 3454, § 30.5; Stats. 1971, c. 1593, p. 3351, § 399, operative July 1, 1973; ?Stats. 1973, c. 1061, p 2110, § 6; Stats. 1973, c. 1212, p. 2840, § 339, operative July 1, 1974; Stats. 1977, c. 1252, p. 4590, § 613, operative July 1, 1978; Stats. 1978, c. 1230, p. 3970, § 2; Stats. 1984, c. 1327, § 81, eff. Sept. 25, 1984; Stats. 1985, c. 842, § 1; Stats. 1985, c. 1295, § 11.5; Stats. 1989, c. 552, § 1.)

§ 14085.5. Disproportionate share hospitals; supplemental reimbursement

(a) Each disproportionate share hospital contracting to provide services under this article or contracting with a county organized health system, and which has or would have met the state criteria developed pursuant to the federal Medicaid requirements regarding disproportionate hospitals for the three most recent years, may, in addition to the rate of payment provided for in the contract entered into under this article, receive supplemental reimbursement to the extent provided for in this section.

(b) (1) (A) A hospital qualifying pursuant to subdivision (a) shall submit documentation regarding debt service on revenue bonds used for financing the construction, renovation, or replacement of hospital facilities, including buildings and fixed equipment.

(B) Qualified hospitals may submit debt service instruments to the department and to the commission regarding debt issued for new capital projects.

(C) Eligible projects shall include those new capital projects funded by new debt for which final plans have been submitted to the Office of the State Architect and the Office of Statewide Health Planning and Development after July 1, 1989, and prior to June 30, 1994.

(D) The department shall confirm in writing hospital and project eligibility for partial financing under this section.

(E) Department advisory letters, conditioned on hospital and project conformity to plans, may be requested by hospitals prior to final plan submission.

(F) (1) Capital projects receiving partial financing under this section shall finance the upgrading or construction of buildings and equipment to a level required by currently accepted medical practice standards, including projects designed to correct Joint Commission on Accreditation of Hospitals and Health Systems fire and life safety, seismic, or other related regulatory standards.

(2) Projects may also expand service capacity as needed to maintain current or reasonably foreseeable necessary bed capacity to meet the needs of Medi-Cal beneficiaries after giving consideration to bed capacity needed for other patients, including unsponsored patients.

(3) (A) Debt service shall only be paid for projects, or for that portion of projects, that are available and accessible to patients treated under this article or by successor programs.

(B) Each project shall cost at least five million dollars ($5,000,000) or, if less than five million dollars ($5,000,000), the project shall be necessary for retention of federal and state licensing and certification and for meeting fire and life safety , seismic, or other related regulatory standards.

(4) Supplemental reimbursement payments shall commence no later than 30 days after receipt of the certificate of occupancy by the hospital.

(5) (A) The state shall pledge to, and agree with, the holders of any revenue bonds issued to finance projects qualifying under this section that until debt service on the revenue bonds is fully paid, or until the supplemental rate is no longer required as provided by this section, the state will not limit or alter the rights vested in the hospital to receive supplemental reimbursement pursuant to this section.

(B) The state shall pledge, and the hospital shall, as a condition of encumbering supplemental reimbursement payments received pursuant to this section, pledge that supplemental reimbursement payments shall be used for the payment of debt service on the revenue bonds. The hospital shall include its pledge and the agreement with the state in any agreement with the holders of the revenue bonds.

(c) The hospital's supplemental reimbursement for a project qualifying pursuant to subdivisions (a) and (b) shall be calculated as follows:

(1) For any fiscal year for which the hospital is eligible to receive reimbursement, the hospital shall report to the department the amount of debt service on the revenue bonds issued to finance the project.

(2) The department shall use the medicaid inpatient utilization rate as determined pursuant to Section 4112 of the Omnibus Budget Reconciliation Act of 1987 to determine the ratio of the hospital's total paid Medi-Cal patient days to total patient days.

(3) (A) (i) The supplemental Medi-Cal reimbursement to the hospital for each fiscal year shall equal the amount determined annually in paragraph (1) multiplied by the percentage figure determined in paragraph (2). In no instance shall the percentage figure determined pursuant to the ratio derived under paragraph (2) be decreased by more than 10 percent of the initial ratio determined pursuant to paragraph (2) prior to the retirement of the debt.

(ii) Hospitals whose Medi-Cal ratio falls below 90 percent of the initial level established at the point of final plan submission shall at least maintain the volume of Medi-Cal utilization which was recorded at the time of final plan submission unless forces beyond the hospital's control have decreased the absolute volume of care.

(B) (i) In no instance shall the total amount of reimbursement received under this section combined with that received from all other sources dedicated exclusively to debt service exceed 100 percent of the debt service over the life of the loan.

(ii) A hospital qualifying for and receiving supplemental Medi-Cal reimbursement shall continue to receive the reimbursement until the qualifying loan is paid off, or the hospital is terminated as a Medi-Cal selective contractor and the hospital does not contract with a county organized health system.

(iii) It is the intent of the Legislature that the state and the qualifying hospital shall negotiate in good faith for rates sufficient to ensure continued hospital participation in the program and to ensure adequate access to services for Medi-Cal beneficiaries.

(iv) The state shall not terminate a contract with a qualified provider for the purpose of terminating the capital supplement.

(v) If negotiations fail to permit continuation of a contract of a hospital qualifying for the supplemental Medi-Cal reimbursement, the supplemental Medi-Cal reimbursement shall cease as of the date of discontinuance of the selective provider contract.

(4) In order to ensure provision of qualified supplemental payments to disproportionate share hospitals contracting with county organized health systems, the department shall make the qualified supplemental payments directly to these hospitals.

(5) Funding for these supplemental payments shall be separately appropriated as a line item in the Budget Act for each fiscal year for any project for which a request for payment is received after April 1 of each fiscal year. The department shall request a deficiency appropriation if funds for the payment are not appropriated in the Budget Act.

(6) The department shall provide the Department of Finance, the Legislative Analyst, and the Joint Legislative Budget Committee with its estimate of the budget year costs of the supplemental reimbursement program, on January 10 and May 15 of each year.

(7) (A) Paragraphs (1) to (4), inclusive, shall be incorporated into an amendment to any contract entered into by a hospital pursuant to this article.

(B) (i) Any contract amendment required by paragraph (A) shall include a payment methodology based on inpatient hospital services rendered to Medi-Cal patients, either on a per diem basis, a per-discharge basis, or any other federally permissible basis, and which is consistent with the hospital's Medi-Cal contract.

(ii) The payment methodology specified in clause (i) shall ensure that the hospital, on an annual basis, receives the amount of supplemental reimbursement calculated pursuant to paragraph (3), excluding only the federal portion of costs which have been determined by the federal government not to be allowable under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code).

(iii) The payment methodology specified in clause (i) shall contain a retrospective adjustment mechanism to ensure that, regardless of the payment methodology, the department shall pay the hospital the full amount owed to the hospital for the year, as determined pursuant to this section.

(8) In negotiating contracts with hospitals receiving payments under this section, the commission shall take appropriate steps to ensure the duplicate payments are not made to the hospital for the debt service costs relating to the eligible project.

(d) All reimbursement received by a hospital pursuant to this section shall be placed in a special account, the funds in which shall be used exclusively for the payment of debt service on the revenue bonds issued to finance the project.

(e) If contracting under this section is superseded by other arrangements for payment of inpatient hospital services, the successor program shall include separate reimbursement, as determined pursuant to paragraph (3) of subdivision (c).

(f) (1) For purposes of this section, "revenue bonds" are defined as that term is defined in subdivision (c) of Section 15459 of the Government Code, and shall also include general obligation bonds issued by or on behalf of eligible hospitals for projects of more than five million dollars ($5,000,000).

(2) (A) The aggregate principal amount of general obligation bonds to be issued as revenue bonds under this subdivision for the anticipated allowable portion of projects shall not, in any fiscal year, exceed a statewide amount established in the Medi-Cal estimates submitted to the fiscal committees of the Legislature pursuant to Section 14100.5, or as otherwise statutorily determined by the Legislature.

(B) In preparing Medi-Cal estimates, the department shall consider, but need not include, all actual and anticipated projects.

(g) (1) The department shall promptly seek any necessary federal approvals for the implementation of this section, and , if necessary to obtain federal approval, the department may, for federal purposes, limit the program to those costs which are allowable expenditures under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code), subject to paragraph (2).

(2) The department shall continue to be responsible for the reimbursement of eligible providers from state funds for the amount of supplemental reimbursement pursuant to paragraph (3) of subdivision (c), excluding only the federal portion of costs which have been determined by the federal government not to be allowable under Title XIX of the federal Social Security Act.

(h) (1) A hospital receiving supplemental reimbursement pursuant to this section shall be liable for any reduced federal financial participation resulting from the implementation of this section.

(2) The department shall submit claims for federal financial participation for all elements of the supplemental reimbursements which are allowable expenditures under federal law.

(3) The department shall, on an annual basis, submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures which are

allowable under federal law.

(4) (i) The department may require that hospitals receiving supplemental reimbursement submit data necessary for the department to determine to appropriate amounts to claim as expenditures qualifying for federal financial participation.

(ii) Unless otherwise permitted by federal law, the total statewide payment under the selective provider contracting program , in the aggregate on an annual basis, shall not exceed an amount that would otherwise have been paid under the Medi-Cal program on a statewide basis for the same services, in the aggregate on an annual basis, if the contracting program were not implemented.

(Added by Stats. 1988, c. 1635, § 2. Amended by Stats. 1990, c. 1310(S.B. 2665), § 2, eff. Sept. 25, 1990.)

§ 16715. Regulations; emergency basis (subdivision (a) only)

(a) The Local Health Capital Expenditure Account is hereby created in the County Health Services Fund. Moneys in the Local Health Capital Expenditure Account shall be expended by the State Department of Health Services, as specified in this section, to (1) provide financial assistance to local jurisdictions to fund capital expenditures for local health facilities and equipment thereof, including new facilities and equipment and the replacement or modernization of existing facilities and equipment, and (2) defray the department's administrative costs in providing technical assistance to local jurisdictions relative to financing these capital improvements, for which purpose the department shall establish a special personnel unit. Moneys in the Local Health Capital Expenditure Account shall be available for encumbrance without regard to fiscal year.

As used in this section, "local health facility" means any facility owned or operated by a local jurisdiction for the provision of county health services.

§ 19352. Definitions (subdivision (e) only)

(e) "Work-activity program" includes, but is not limited to, sheltered workshops, or workshops of work-activity centers accredited under departmental regulations.

§ 19355. Purchase of services; time of continuation

The department shall purchase those habilitation services which it determines to be necessary in the habilitation component of the individual program plan for eligible adults with developmental disabilities from accredited community nonprofit work-activity programs. Habilitation services shall continue as long as reasonable progress is being made toward achieving objectives of the individual program plan or as long as these services are determined by the habilitation team to be necessary to maintain the current level of functioning of the person.

(Amended by Stats. 1983, c. 323, § 137, eff. July 21, 1983; Stats. 1984, c. 135, § 21, eff. May 31, 1984, operative July 1, 1984.)

Cases

Methodist Hospital of Sacramento vs. Saylor (1971) 5 Cal.3d 689 (97 Cal.Rptr. 1)

Notes of Decisions

1. Loans

Construction of Const. Art. 13, § 21.5 (repealed; see, now, Const. Art. 16, § 4.) restoring to the legislature the power to insure or guarantee health Facility Construction or improvement loans as extending to insurance to lenders of debentures in the amount of unpaid balance upon default was not foreclosed by Const. Art. 16, § 2 declaring that no amendment providing for the issuance and sale of bonds should thereafter be submitted to the electors nor become effective, since the latter provision was designed to put an end to the practice of enshrining ordinary bond laws in the Constitution, while the Loan Insurance Law enacted to implement the amendment was not an ordinary bond act. (Methodist hospital of Sacramento v. Saylor (1971) 97 Cal.Rptr. 1, 488 P.2d 161, 5 C.3d 685.)